Mac Donald (C. F.)

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By Carlos F. Mac Donald, M. D.,
Superintendent of the State Asylum for Insane Criminals, Auburn, N. Y.

[From the *American Journal of Insanity*, for April, 1878.]

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At a Court of Oyer and Terminer, held in January, 1878, in the County of Cayuga, State of New York, Hon. Chas. C. Dwight, Justice, presiding, Edmond J. Hoppin, a man twenty-six years of age, single, was tried on an indictment for murder, in causing the death of Philip H. Proudfit, in July, 1877.

This was the last of a series of eight murder trials which had occurred in the county, in rapid succession, all within a period of two years; and five of them within three months—and this was the third of the series in which the plea of insanity was interposed as a defense. The following extract taken from one of the daily newspapers at the time of the trial, will serve to indicate the extent to which public attention was drawn to the case.

> The published announcement that the trial of Hoppin would open before Judge Dwight this morning, had the effect of filling the court room to its full capacity.
>
> It must be remembered that in all the murder trials in Cayuga recently, the accused has invariably been a hardened wretch, in whose fate the people took no sort of interest whatever. In this case it is entirely different. Hoppin comes of good family and most respectable antecedents; he had always led a quiet, honest and unassuming life up to the time of the perpetration of the crime, when he suddenly became notorious, and, from the causes which led to that crime, in some sense a hero.

During the progress of the trial, it was evident that the sympathies of the community were with the pris-

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oner, partly on account of his excellent character prior to the homicide, but largely because his unfortunate situation was regarded as the result of a combination of melancholy circumstances, which led to the fatal affray that resulted in unintentional homicide.

The tradegy occurred in the little hamlet of Sterling Valley, situated in the northern part of Cayuga County, N. Y., on the evening of July 13th, 1877. The deceased was unmarried, twenty-nine years of age, and a son of the late Dr. Alexander Proudfit, who was tolerably well known throughout the State, the family name being reputed as one of the oldest and most aristocratic in the Lake country. Edmond J. Hoppin, the prisoner, is the youngest son of a respectable, well-to-do farmer, residing in the same township.

It appears, that about three years ago, young Proudfit began paying his addresses to Hoppin's youngest sister, who was then about twenty years of age, comely in appearance, and of chaste repute. The friendship of this young couple soon ripened into intimacy, and it was thought they were to be married. Under the sacred promise of marriage the pseudo-lover accomplished the young girl's seduction, and then, in order to evade the result, procured medicines which he persuaded her to take for the purpose of producing a miscarriage; failing in this, and realizing that her condition could no longer remain a secret, he fled from the vicinity, in order to escape the inevitable consequences of his perfidy. When Miss Hoppin found that the author of her ruin had abandoned her, she became desperate, through shame and fear of exposure, and attempted suicide by poisoning, but was discovered in time to prevent a fatal termination. While suffering from the effects of the poison, her condition became known to her mother, who at once communicated the fact to the

rest of the family, including the prisoner, who, at first, refused to believe it. His doubts, however, were speedily removed by the discovery of the following letter, written by her just before taking the dose which she hoped and expected would end her earthly troubles.

DEAR PARENTS, BROTHERS AND SISTERS:

Forgive me, but I have committed a great crime and care not to live; I haven't spent a happy day or moment for a number of months; I have tried to act natural, but found no pleasure anywhere; there is one person who might have saved me from this; but he thought I was trying to deceive him. He knows why I die; God alone knows what I have suffered; oh, death is the only relief; you are all very dear to me, and it is hard to leave you, but it is best. I once enjoyed religion; oh, that I had continued to serve God, I would not have been where I am now; oh, if I was the girl I was when I went to the Valley; I had always said I would never cause you any trouble; but I have fallen, and am forever ruined. I hope you will all meet in heaven, I trust you will, but I shall never go there. Think of me as lost; I might have been a christian now. The Bible says, the vilest sinner may return, but it is better that I die than live as I am; you will soon forget and it is better that you should; tears prevent my writing and I bid you Farewell Forever,

LINA.

My young friends will think I have done them great injustice in accepting their invitation, but I knew it was the last time, and I tried to forget the troubled future in so doing.

Hoppin, believing the story of his sister, that it was only by the most seductive wiles and solemn matrimonial promises of Proudfit that she placed her honor in his keeping, was naturally overwhelmed by this sudden and terrible family affliction. Following this unfortunate event, his aged mother declined steadily in health, and died, it was said, "of grief," only a short time previous to the homicide. Young Proudfit remained absent nearly two years, returning to Sterling a few days subsequent to the death of Mrs. Hoppin.

Hoppin was employed in the store of J. C. Hunter & Co., in the village. The post office is in the store, and Hoppin also attended to that. He was in charge of the establishment, and alone, on the evening of the tragedy, when Proudfit, whom Hoppin had not met since his return, came in and, unhesitatingly walking up to where Hoppin stood, asked him to get Dr. Hugh Proudfit's mail. (Dr. Hugh Proudfit was an uncle of Philip's, at whose residence the latter was staying.) Young Hoppin handed over the mail and, as he did so, Proudfit addressed him in a sneering manner regarding the down-fall of his sister, saying, "*Yov've* lived through it, haven't you?" Overcome with intense anger, Hoppin seized a heavy base-ball club which stood by the counter, and felled his tantilizer to the floor, by a single blow upon the head; he then cast the club aside and grasping Proudfit by the wrists, stood astride of his prostrate form to prevent his returning the blow. A man who entered the store just in time to witness the assault, rushed forward and seized hold of Hoppin who exclaimed, "Don't let him strike me." Hoppin then started to go out of the back door, where he met James C. Hunter, to whom he exclaimed, "I couldn't help it Jim, he killed my mother." Proudfit made no attempt to return the attack, but got up, and, *without assistance*, walked to his uncle's house, about thirty rods distant. His mind was clear so that he conversed freely regarding the encounter, while his head was being dressed. During the night he was slightly delirious, but slept a portion of the time. On the following day, his attending physician, his uncle, declared that the injury was not serious, but that he would have "a very sore head." Later in the day, however, he became unconscious, and died in convulsions early on Sunday morning—about thirty-six hours after receiving the injury.

An autopsy, held several hours after death, revealed an extensive extravasation of blood, between the dura-mater and the skull, extending downwards from the point (middle of left coronal suture) where the blow was received, "nearly to the base of the brain," and, spreading out laterally, covering that portion of the anterior lobes, lying directly underneath the frontal eminences of the skull. The examination terminated upon the discovery of the coagulum, which, judging from its location, in connection with the point upon the external surface of the skull, where the blow fell, leaves scarcely any doubt that the force of the blow caused a rupture of one or more of the smaller vessels of the anterior branch of the middle meningeal artery. The very superficial character of the autopsy is a matter of great regret, especially as one of the two issues made by the defense was, that death was not the result of the blow, the prisoner's counsel alleging that the vessels were ruptured, "if at all," by the strain incident to vomiting caused by the exhibition of large doses (twelve grains every four hours) of calomel. If the coroner had taken the precaution to open the membranes and examine the brain itself, and also, to carefully inspect the base of the skull, it is possible, if not probable, that he might have discovered conditions which would have established the cause of death beyond the possibility of a doubt.

As this branch of the case may not be referred to again, it may be stated in this connection that the writer was not a witness upon this point, he having declined, for obvious reasons, to testify as an expert respecting questions that properly fall within the domain of surgery.

Hoppin made no attempt to escape after his attack upon Proudfit, but was under arrest "for assault," and

in the custody of a constable when the surprising intelligence of Proudfit's death was conveyed to him by an officer who served a second warrant upon him. After the coroner's inquest he was lodged in jail, at Auburn, where he remained, without special event, until his trial took place in January last.

The defense, as already indicated, involved two issues: 1. That the blow was not the cause of death. 2. That the accused was not responsible for his acts at the time the blow was struck. Medical and lay witnesses were called on both sides, to testify regarding the first issue, but the testimony was somewhat conflicting, and it is very doubtful if the point in question was definitely settled to the satisfaction of the jury.

The medical witnesses called as experts upon the question of the prisoner's mental condition, were, by the prosecution, Dr. John B. Chapin, Superintendent of the Willard Asylum, and by the defense, Dr. Theo. Dimon, of Auburn, and the writer.

Testimony was introduced tending to show that the prisoner was predisposed to insanity, or other nervous disease, by reason of an inherited taint descended from his paternal grandfather, who, it was alleged, was deranged late in life, and also from his mother, who died hemiplegic. It was proved that an older sister of the prisoner was once "a raving maniac and continued in this condition about a year;" also that his paternal uncle and a cousin were insane. A vast amount of testimony, covering all the circumstances of his sister's downfall, and the effect of that unhappy event upon the entire family, was presented by the defense and admitted by the court, on the ground that it was material, as tending to show the result of this great affliction upon the mind of the prisoner. The prosecution introduced witnesses to show that the prisoner was

actuated by a strong motive of revenge, and that he had made threats of violence toward the deceased, which threats, it was alleged, indicated that the act was premeditated.

The following is the testimony offered on both sides:

B. F. Cooper, called for the people:

I was in the store about three P. M., of the 13th of July last, and as I stepped in I saw Proudfit taking a paper from the delivery and pass towards the door, Hoppin walking along the same way nearly even with Proudfit, till he came to an opening in the counter, when he came out and struck Proudfit with a club which felled him; Hoppin then sprang on to Proudfit, and I grasped him, but he twice got away from me; as I grasped him the second time I called for Mr. Hunter to help me; Hoppin had hold of Proudfit holding him down; as I called on Hunter, Hoppin said, "Don't let him strike me," and he came back over against me, pushing me over, and then he went out of the back door; Hoppin met Hunter out there and said to him, "I could not help it Jim, he killed my mother." [The prisoner wept at these words.] Hunter, when I called him, was near the barn some five or six rods away. Proudfit rose up himself without assistance. Hunter told him (Proudfit) that he ought not to come in there. Proudfit replied that he had a right to come after his mail: Dr. Proudfit told Hoppin he would have him arrested; Proudfit then went to the Doctor's office with the Doctor, walking without assistance, to have his wound dressed; I went to the office with them, going in a minute or so after them. Two or three days before the affray in the store, I had a talk with Hoppin in the store. He said to me, "a black hearted villain, he would see his heart cut in pieces and strung up;" he said he would not do it, but he could see it done; I told him I did not want to hear him talk so; we were sitting on the counter; he said I did not know how to sympathize with him; some ladies came in then and he waited on them and I went away. Q. Did he say who it was, when speaking so? Ans. There were no names spoken by either of us.

Hiram Smith testified:

I live at Sterling Valley and know Hoppin and knew Proudfit; Hoppin said to me on the 11th of July at Hunter's store, we sitting on the stoop, and Philip had just left us, "that black son of a bitch," and soon repeated it and that he would like to see his heart's blood running down the street, and that he would like to tear it out, but he knew it was wrong; that he, Philip, had destroyed the peace of their family. Again, in the same place after the affray, he said Philip came into the store and "called me Ed. just as though I was a friend to him and I could not stand it."

Cross-examination. I lived in Sennett and went by the name of Charles Cook; I was called Hiram Smith, Charles Cook and Jerrad Cook all my life since I can remember; I made no reply to Hoppin when he made those remarks; he appeared considerably excited; I did not speak to him; I have

repeated these words before, once at the inquest and once at Sterling Valley; I saw Hoppin before this that day in the store; the store door was open, and I was some four feet from the door, I had talked about five minutes with the Proudfit's before Hoppin came out; Hoppin did not call or speak any name, but spoke excitedly; I think the last he said to me was "I s'pose you can't sympathize with me."

Re-direct. He made a gesture with his hand when he used the words, but not in the direction of Proudfit, nor did he look at Proudfit.

Dr. Hugh Proudfit, Sterling Valley, sworn for the people:

Am a physician; have lived twenty-eight years in Sterling; live from twenty-five to forty rods from the store; Philip was my nephew; was twenty-nine years old; I saw him when he went into the store; next I heard a tussle; Cooper was standing by the side of Phil. and Hoppin had Phil. by both wrists holding him down; only a few seconds between Philip's and Cooper's going into the store; the first thing I noticed was blood running down Phil's. neck. I said "did he knock you down," he said "yes, Uncle Hugh, he knocked me down with a ball club;" Hoppin said "don't let him strike me;" the club lay on the counter on the north side of the store, on the east end of the counter, two or three feet from Hoppin; I seized the ball club and told Hoppin to let go of him; I advanced toward him with the ball club and he wrenched away from Cooper and ran to the back part of the store; Hoppin turned round just at the door and came back with Hunter; Philip was getting up at this time; then Hoppin said "Jim I couldn't help it, he killed my mother;" I said to Hoppin, "I'll have you arrested within an hour;" Hunter said to Philip: "You oughtn't to have come in here;" I said "he has a right to come in here;" on examination of Philip's wound I found a contusion extending back, parallel with the medium line of the skull; could not detect any fracture of the skull; dressed it with adhesive straps; was with him about an hour; he seemed faint and sick; he lay down on the lounge and staid there till after dark, I think; I went into the store at just about three o'clock; I went back to the store to get my paper; when I got back he showed no unfavorable symptom for some time; I attended him till he died, about three o'clock Sunday morning, the fifteenth; died in my office; Alexander Proudfit was there about sundown and one of us was with him all the time; was present at the post-mortem examination, Friday evening; he grew weak; his pulse was low at about ten o'clock; was slightly delirious at times; he went to sleep about eleven o'clock; he slept quietly all night except when we roused him up to take medicine; I only slept two hours: went to bed at twelve and got up at two; on Saturday, in the morning, he seemed brighter for a spell; about eleven he roused up, and about noon he said he felt much better; shortly after that he began to get restless; Alexander went for Dr. Acker about ten or eleven o'clock; he was restless for an hour or two; Dr. Acker came between twelve and one; quietness came on then and continued till four or five o'clock; went away at three o'clock and returned at eight or nine; came back and found the patient in convulsions and stayed with him till he died; I bled him a few moments after I got back; I bled him a little over a pint till he stopped moaning and till he got easy; Dr. Acker came about noon; Philip lay at that

time quietly on the bed; Dr. Acker examined the wound and ordered cold water applications to his head; I told Dr. Acker I had given liberal doses of catharties; these doses never operated as they ought to and we gave him injections; there had been no operation of the catharties until after Dr. Acker left, and not until we gave injections; I ordered the injections soon after Dr. Acker left; I left again about three or four P. M., and went to Fair Haven, being gone about five hours; when I came back he was in convulsions; spinal muscles were affected, and there was contraction of the mucles of the arms; I bled him to relieve him, regarding his case as hopeless; there were no symptoms of compression of the brain until he had convulsions; he vomited a little while I was dressing his wound at first, and he vomited again before ten in the evening, but not much; liquid matter was thrown off, a little greenish in color, and in quantity about a pint; no one held his head when he vomited, he himself putting his head over the bed and vomiting into the vessel; he vomited again in the night as Alexander said; the second vomiting was only liquid tinged with green, which showed a derangement of the stomach, and a bilious condition; he had been in poor health before he came home from the west.

Dr. ACKER testified:

I am a physician residing at Hannibalville; I made an examination of Philip Proudfit, opening the wound, at about two P. M., Saturday; there was no fracture of the skull; his eyes were not very sensitive to the light: Dr. Proudfit told me how he had treated him; I suggested that there might be a fracture of the inner table of the skull; I opposed bleeding him at that time; the pupil of the left eye was a little the most dilated; he said he had made water that morning, and I tried to make an examination of the bladder but he resisted by pushing my hand away and saying "not there;" there were indications of paralysis; I suggested injections in case his bowels did not move, but did not regard their movement as material; I suggested cold water applications to his head.

Cross-examination. The post-mortem examination was over when I arrived, and I made no examination of the body, but saw a clot as shown me lying on a board; the surface of the clot was smooth, moist and glistening; my opinion is that the clot was of recent formation, or not until symptoms of extravasation began.

Re-direct. How are you able to determine the time of the formation of the clot? Ans. By the formation of the clot, particularly as to its moist appearance.

Question by the Court. Do you mean to say the clot was double?

Ans. No sir, it was drawn in a little on the sides, though not divided, but was one clot or piece.

Dr. ELDRIDGE testified:

I live in Port Byron and have been a physician and surgeon over forty-nine years; I helped make the post-mortem examination; we found a slight abrasure on the hairy part of the scalp, and found the injured part which extended near to the base of the brain; in which we found the clot as described by Dr. Acker; there was no fracture of the skull, and no compres-

sion of the brain, except from the coagulum, and this was sufficient to cause death; the clot was of the color of venous blood; the dura-mater was separated to a large extent from the skull: the greater the extent of this separation the greater would be the coagulum.

Cross-examination. Dr. McKnight and Dr. Jenkins did the manipulating at the post-mortem examination; there was no separation of the dura mater from the skull except where the clot was formed; the wound was directly over the left eye extending over or across the suture, and nearly at right angles thereto; there was no rupture of the dura-mater; I think there was a very small abrasure of the skull about the size, perhaps, of a kernel of corn.

Dr. George McKnight testified:

Have practiced as a physician and surgeon for thirteen years in Sterling; a blow on the skull with a weapon as described by Mr. Cooper I believe would rupture the blood-vessels in that locality, though it might not have ruptured or severed all that were ruptured or severed. This question and answer were objected to by the defense, but admitted by the court.

Alexander Proudfit testified:

I am brother of Philip Proudfit and attended him the last few hours of his life; I went to the office on Friday at about half past four and found him lying on the lounge; went away and returned at about half past five and staid with him about half an hour, went again to North Sterling and came back and staid with him all night. I was with him after this all the while except going after Dr. Acker, being absent about an hour; first saw him vomit about half past five and it lasted about half an hour, or until I went away; again about seven o'clock he vomited, and every time after this when he took drink or medicine; he tried to take food but could not; it would roll out of his mouth; I first gave him medicine about seven o'clock giving it every four hours; the night before he died, or Saturday night there was some medicine in a tea-cup which I gave him but I do not know what it was; he seemed to be in a sort of stupor from Friday night all the time, but would rouse up to answer questions and go to sleep again; I could not arouse him on Saturday afternoon at about four o'clock; but finally did after some time; he was harder to arouse till he went into spasms.

Cross-examination. I am thirty-one years old, being sixteen months older than my brother. I think the medicine in the tea-cup was to relieve his spasms. It had a reddish cast and the tea cup was about half full. I thought it hurt him and I refused to give him any more of it or of any kind of medicine because it hurt him so to swallow. The Doctor twice prepared calomel powders for him. Some powders were left on Saturday afternoon because he could not take them, but we did give him more afterward, and after Dr. Acker had left. He vomited very bad when he lay on the lounge and after he went to bed; I did not notice any greenish color in the vomit at any time; the vomiting continued till he died, often making an effort to vomit but raising nothing; nothing that I remember was given him to prevent vomiting and he said nothing about it that I remember; he answered readily

questions asked him by Dr. Acker, and in the forenoon he rose up and sat on the side of the bed and pulled on one of his boots; I took it off and told him he must lie down; he knew me and others who came in; he was quite restless after he had spasms, but was quiet before that time; he had perspired Saturday night but not before that I noticed; there was no cooking in the house after he was struck, nor any fuss made; we ate at the neighbors during that time; the Doctor slept Friday night on a bed on the floor in an adjoining room.

The foregoing embraces the essential portion of the testimony for the people excepting what was offered in rebuttal.

The following includes the most important testimony presented by the defense, and also the testimony of Dr. Chapin, offered in rebuttal by the people.

ISAAC M. HOPPIN, father of the prisoner: * * *

I went after Ed. and his sister the night of the poisoning; they went right to the room where Lina was; I went there just after; think he was asking her her motives for the offense and what she had taken; she said two ounces of laudanum; and after a little he took the vial and tasted it and threw it away, saying that "it mustn't be seen." He was walking with Lina a good deal that night; I heard a good deal of conversation between them; Ed's. condition was characterized by redness of eyes; continuous weeping and walking to and fro in the manner described by the other witnesses; I walked with Lina some; the Doctor, Mrs. Smith, and I guess my wife did; we made strong efforts to have her vomit; finally succeeded at about ten o'clock I think; substance of conversation between Lina and Ed., was regret for what she had done, expressed on her part; she said three or four times, "Do let me lie down and die." Her condition was talked over between him and her more than between any of the others: she seemed to take the blame on herself; wouldn't have blamed me or any of us if we had turned her out of doors; think it was about four o'clock or after when I went to bed; think Ed. was up then; heard Ed. and Lina talking once after this in the parlor; the subject was her trouble; can't tell just what was said; I gave Lina's letter to Ed. to read; remember nothing said where Lina got her medicine; was at home when Lina's child was born; Ed. was there; I observed his eyes were very red; some groaning; making gestures with his hands and clasping them; heard him talk some that night; remained at home that time about two weeks before he left; he went to Oswego a short time that spring; then came back to Hunter's; he weighed now only about one hundred and forty: previously his weight had been one hundred and seventy-five or one hundred and eighty; the white of his eyes appeared red, think I had to speak several times to him on a few occasions before I could gain his attention; wife's health was good down to time of this trouble; weight one hundred and eighty; almost always did her own work; was occasionally troubled with

palpitation of the heart; had had it for a number of years; after the poisoning, within a year or a year and a half, her flesh wasted to one hundred and twenty-five, she died last June I think. Dr. Kyle was there, and she consulted him at different times, perhaps from one to two years before the poisoning; think he gave her nothing; her heart attacks were less frequent afterwards than before; first that I saw of paralysis was a lack of use of her left hand, about the first of February, 1877; she was then doing her work; next noticed the paralytic stroke in February; from that time she had no use of her left side; she could talk some, but her speech was thick; Ed. was there frequently, and was very attentive and kind to her; she said to him on one occasion, in substance, that this had been brought about by Proudfit; she spoke of it several times after; when these things were said to Ed., I often saw him with tearful eyes, nervous, excited more than at other times; I had often been awakened by my wife's weeping and mourning; told Ed. his mother was wearing away with grief; I think the last words she said were to Ed.—"that villain that killed us all;" she was conscious but a few hours after this; think I never heard her speak again; she lay, I think, on her left side, with her face toward the south; both she and he were weeping at the time; her age was sixty-two when she died; never had any sickness myself except ague; it always deranged me; my father was sixty-four when he died; I frequently heard him say his future destiny, he feared, was bad; he would walk the house with exclamations that it would have been better for him if he had never been born; noticed this for fifteen or twenty years before he died. He was always a very sedate, sober man; he was a church member, very devoted, during my memory. Have a daughter married; two years ago her condition was characterized by glassy eyes; repulsion of her friends with improper language; she was married and had one child; she did no work for nearly six months; they had a Doctor who now lives in Oswego; she used personal violence to my wife once; she struck her; could see no occasion for it; I came in and saw that there was a misunderstanding between her and her mother; just came in the door as my daughter drew up and struck her; Mrs. —— face and eyes were very fierce and glassy; think her conversation was broken and incoherent; I have a brother Lyman; nearly eighty now, I think; saw him about ten years ago; his physical health was good; thought his mind a little affected; he would say one day that he would do some particular thing the next day, and soon after would speak of doing something else.

ALBERT J. HOPPIN:

Am a brother of Edmond; older; was living about twenty-two miles from father's home, in '73 and '74; have seen my brother frequently since Lina's trouble; heard of Proudfit's intended coming home in June, '77; saw my brother about that time, at my house; saw my brother about the 11th of July; I said I understood Proudfit was coming back; he said something about prosecuting him; he acted strangely; walked back and forth wringing his hands; we were there perhaps fifteen or twenty minutes; I advised him not to prosecute him; just after the trouble came out, I slept with him one night; he was very restless; spoke about the trouble; said he could hardly endure it; saw Ed. at the time mother died; he wandered from room to

room; walked very fast, then perhaps sat down for a moment or two; then up and walked again; you couldn't talk with him—he wouldn't answer; he was very absent-minded; he was always very talkative before; noticed him at the festival with Miss Turner; he didn't take any part in the festivities; noticed a difference in his appearance a short time after he came; he kept apart by himself; didn't talk with me after he first came; he went away before the rest; Ed's. weight had been one hundred and seventy-five or one hundred and eighty for about three years previous to the trouble; several times I noticed he looked haggard and thin. Had a conversation with mother as to her trouble; I told Ed. that the trouble was killing mother; this was after my talk with mother. Witness described Miss Hoppin's condition before and after the trouble substantially as detailed above. Ed. and Lina were always very loving together; he always got her a good many presents; she was very frequently with him.

Mrs. Kate Mills:

Am a sister of the defendant; age is forty four; was at home and helped take care of mother during her last sickness; lived about twenty-two miles from father's; generally went there two or three times a year; witness described mental and physical condition of her mother before the attempted suicide as already given; I went there six months after Lina was at home; her paleness and decrease of flesh, lack of cheerfulness, were unlike herself; her child had been born at that time; mother was almost as much changed as Lina; she showed it in her manner and conversation, and in her falling off in flesh; didn't see mother again till I was telegraphed for to come to her sick-bed; was with her twelve weeks before she died; when I came her face was drawn around, her left side was helpless; I could hardly understand her conversation; she partially recovered and then could talk somewhat easier; think the other side was affected before she died; she sat up in bed to take her food; Ed. came home quite frequently, and always spent his nights in the room with mother when there; she spoke to him of the "trouble that's killing us all," several times; he tried to have her recognize him several times; she would say "yes, its my good old Ed.;" spoke with Ed. frequently of the trouble that was killing us all; told him of mother's being constantly reminded of the disgrace and shame by the presence of Lina and her child, while he, the villain, was at liberty; Ed didn't engage in conversation as before; wasn't as friendly and affectionate; always thought there was a peculiar look between Edmond and his mother; shown by their manner of meeting; always cordial; kissing when they met; this continued as long as they lived; he was an unusually good brother and son; mother relied on him more than the others; Ed. acted at the funeral as though he had lost his best friend; think I have been home but once since the funeral.

Melissa Barnes:

Am a sister of the defendant; age thirty-seven; am a widow; lived at my father's; was not there at the time of the poisoning; came there a few days after; found my mother and Lina there when I got there; mother looked pale and seemed feeble; she was crying when she met me; seemed to have

lost flesh and her appetite; she never seemed to recover from the shock; she was down-hearted and cried a good deal. Heard some conversations between Ed. and mother; she would often say, "Oh, Ed., the villain that's killing me, I'm dying by inches;" then he interrupted by weeping; Ed. would seem almost frantic at these times; he grew down-hearted and thin; had previously been a very happy-dispositioned boy; I often told him that she cried a good deal in the night and was restless; I knew of this because there was only a thin partition between her room and mine. Ed. would often cry and look down and wring his hands. Sometimes he would answer questions, sometimes not; I spoke to him about mother's difficulty in walking; told him that she had fallen at two different times the winter before she died; she sprained her ankle on one occasion; she was troubled with this about a week; this was supposed to be a partial shock of paralysis; remember seeing Ed. at home in June, '77; my father and I were in the sitting-room when he and Miss Turner came; he had heard of Philip Proudfit's return; this was after the church festival; at the house that night he looked wild and agitated; would wring his hands and walk back and forth; he said, "Oh, dear, I can't have him come back;" he scarce ever called him by name; always spoke of him as the villain; he repeated his sighs over and over again; he spoke saying, "the trouble has killed my mother;" I was present the last time my mother was conscious; we had just gotten her up on the lounge, Ed. had his arms around her; I said, "Mother do you know who that is?" she said, "I guess I do, it's my dear old Ed.," then, "the villain that's killing me;" mother was deranged for nearly a year; Dr. Dewitt attended her, with Dr. Kyle as counsel.

Mary E. Hunter, wife of John Hunter, of Sterling Valley:

Hoppin lived with us three years; I saw him almost daily while he lived at James Hunter's; I knew him very well; I saw him at the store and in the house before the homicide; a few days before, I was in the store and Dr. Proudfit came in and spoke to me; Ed. came up; stood by us; then walked back and afterwards came up again after Dr. Proudfit was gone; he looked very wild; then he went away again and came back and asked me if I had seen Proudfit; I told him I had not; his eyes were very glassy and wild; he watched me very closely; had seen him at my house about a week before, in the afternoon; said he wanted to talk with me; he said "where did you hear that Proudfit had got back?" I told him Dr. Proudfit had told me Phil. was at the Bay; he turned very white, and shook like a leaf, and said, "he mustn't come back; he killed my mother; I don't know whether you are my friends or not;" I said that we were; that he couldn't help what Lina had done; he said he had spoken to Lina, and told her that if she would behave herself and be a good girl, he would be a good friend to her all her life; he said Lina had told him that she hadn't been guilty with any other person only Philip Proudfit, he trembled all the time he stood talking to me; said he went to Cal. Green, and Cal. had said that he vowed he had never had anything to do with Lina; at another time he said of Proudfit, "he has come back to provoke me;" I said, "Ed., don't you touch him;" he said, "I don't intend to; I shan't have anything to say to him; I have written to my friends to that effect;" he was walking back and forth all the time, moving

his hand all the time; he didn't stay there very long; Thomas, my son, called him from the store.

Cross-examined. Ed. first mentioned Green's name in the conversation in the bath-room; had no previous conversation with Green; he spoke as if some one had told him about Green.

CHARLES SMITH, Sterling:

Have known the Hoppin's about thirteen years: saw the defendant at the church festival, June 22, 1877: heard that day of Proudfit's return; told Hoppin of it that evening at about half-past eight; he first came in and took an active part in the gathering till I told him; then he said, "is that so?" He dropped his head and went and sat down in the back part of the church and his girl went and sat down by him; don't think he staid over twenty minutes or so after I told him; he was more cheerful before than he was after it; I saw him on the fourth of July at the edge of the village; he was umpiring a game of ball.

JAMES HUNTER, Sterling Valley:

Hoppin was in my store a little over three years; then went to Clifton Springs; staid there till December 7th; worked for me till January, '75; saw him soon after the poisoning; think I saw him a few days after it; he was very much excited; he wanted to know if I knew where Proudfit was; he cried some; I saw him occasionally after that; he was sad; wasn't as lively as previously; came back into my employ in September, '75; staid there till July, '77; he was quieter and had a sad expression; was not nearly as fleshy as when he first worked for me; in '74 he weighed one hundred and eighty. A few days previous to the homicide he was frequently very much excited and very absent-minded; would face customers and not notice them; was very attentive to customers down to this time; he made mistakes in making entries; would charge for a pound of sugar and carry out the price for ten pounds; never saw anything of the kind before. These mistakes occurred all through these three or four days; I called his attention to them several times and sometimes he wouldn't remember anything about it; memory was formerly very good; he was very much excited when he went up to talk with Mrs. John Hunter; he ate very little and weighed less than one hundred and fifty; we had several talks as to whether I knew if he had come back; Proudfit's arrest was made at Charlotte; he was brought before Justice Douglass; I told Ed. that that Proudfit was guilty, and if I found out where he was I would tell him; my wife was an adopted daughter of Philip's father; Phil. was a good appearing, well-dressed feilow, a gentleman in the presence of ladies; he was under arrest at Sterling from evening till the next forenoon, to between ten and eleven.

SAMUEL HUNTER:

Live at Sterling Valley; age, twenty years; am John Hunter's son; was in the store with Hoppin up to a year before the homicide; saw Hoppin the 9th of July, 1877; I had noticed his appearance; on the 5th of July he called me into a back room and asked if I had heard that Phil. was around; I told

him I had; he told me that he didn't wish to see him; that he had come back on purpose to provoke him; told me that this trouble was the cause of his mother's death; he was very restless; kept rubbing his hands together, walking back and forth across the store; told me that if I saw Philip Proudfit, to let him know, that he wished to prosecute him; I said I would; one evening in the Spring, I think, I was in the store and he was behind the counter; Dr. Hugh came in and asked me if Phil. was around; I told him I didn't know; afterwards Ed. asked if that wasn't what Dr. Hugh asked me, and told me if I saw Phil. when I went West, to let him know he wanted to prosecute him; I saw Ed. walk West from the store once; his head was down; he walked slow; don't know just when he came back; on the 4th of July his eyes were red; his face was flushed; he looked discomposed; have seen ball-clubs in the store; they were simply kept there by the boys; were bass wood clubs.

AMY E. TURNER:

Twenty years old last August; have been living with my uncle, Walter Hughitt, in Sterling; my father is dead—has been dead seven years; became acquainted with Mr. Hoppin three years ago; was there about four months; he paid his addresses to me; we were engaged the 20th of August, 1874; I went West afterwards; he visited me at my home in November; when I first knew him he was very robust and pleasant; very social and cheerful; came East again in 1875; he wrote me about Lina's trouble before I came; I came East to live in Sterling to take care of my grand-parents; lived two and one-half miles from Sterling Valley; when I saw Hoppin, after coming East, he seemed pale and worn; he had but little to say; he told me all about her trouble, coming from Oswego to Sterling; he wept bitterly and his hands twitched; never mentioned the subject after that evening; I never knew him to sit still five minutes at a time in his father's house except to eat his meals; was especially nervous if Lina's child was around. The same general description of Hoppin's appearance and actions as given by previous witnesses. In riding from his father's to my uncle's he seemed abstracted and would hardly answer my questions; on one occasion he sat still so long that I shook his arm and said "For mercy's sake, Ed., what are you thinking of;" the one word "Lina" dropped from his lips; this was just before his mother's death; at his father's house he would sometimes sit and look at Louis (the child) and then rise and go out of the house; his mother said to me once "Amy, I am here yet;" I told her I hoped she would be with us a long time; she said she thought she wouldn't be there when I came again; I said "you will find it a rest;" "yes, dear," she said, "a sweet rest;" then turned to the wall and said "O Lina, Lina;" I would ask Ed. at times if he was sick and he always said "No." until one night he looked so badly that I made him answer me; he said "It seems sometimes as if I could not stay in the store, turn which way I will Lina stares me in the face;" one night his mother was lying in the parlor, and he came and lay down on the couch in the sitting-room and shook with sobs; I asked him—"Ed. what is it?" he said "I can't give mother up;" I said "if it's willed that she shall die you'll have to give her up;" he said "I feel as if she was being killed; she often speaks to me of Lina and this trouble is killing her;" I remember the change in him after Charley Smith spoke to him at the festival; he was deathly

white and seemed in utter despair: I said "Ed. are you sick?" he said nothing and I said "anything new happened?" he said "no;" "what is it then," I said; he said "I'll tell you when I get a chance;" we got out of hearing and he said, "that villain is coming back; Charley Smith told me so;" he trembled and his hand was cold; I said "for pity's sake let us go home, don't make a scene here;" he said very little going home, he wanted to get out at Sterling Valley, but we persuaded him to go home; his eyes were inflamed and his face colorless; his head was hot and his hands cold; he said "I can forgive everything else but his killing my mother, that I can't forgive;" upon the night of the prayer-meeting, the Wednesday before the homicide, I saw Ed. and he spoke of having met Philip Proudfit; he said "I felt as if my head would burst; I felt as if I could drop down and die;" he spoke of prosecuting Phil. Proudfit, and I dissuaded him, and he said "if he doesn't leave I will;" our marriage was fixed for October, 1877; we were to live at his sister's at Sterling Centre.

Cross-examined. He told me Wednesday night that Proudfit had been in the store Tuesday night.

Re-direct. Ed. jerked away from me several times that Wednesday night, and I went to him again and took hold of his arm, and he pushed me away and told me to sit down, and I sat down.

STILLMAN COBB, North Sterling:

Knew Mr. Hoppin; I arrested him last July, Saturday night; he was at Walter Hughitt's; had him in custody till the next Tuesday; he made no attempt to escape; meantime, had him in no confinement.

Cross-examined. Was with him all the time till I brought him out.

KATE HUME:

Live in Sterling, near Martville, next neighbor to Mr. Hoppin; knew Edmond Hoppin; saw him at the time Lina's child was born, he was coming down stairs when the child cried; he stopped, stared and turned to go out of the door; he came back and sat down to the table; he ate but a few mouthfuls, when he got up and took another chair; saw him at the store just after the homicide, when he looked and acted as if he hardly knew what he was doing; I was looking at some dress goods; he didn't offer to show me any others nor to send to Oswego for me as was his habit; Mrs. Albert Hoppin was with me.

Cross-examined. It was between three and four o'clock in the afternoon; he said "I wouldn't care about his taking my heart out if he hadn't killed my mother."

EDMOND J. HOPPIN:

Age 26 last July; have lived at home mostly with my father; from sixteen I left my father's home during the summer; farmed during the summer for $20 a month at McKnight's, and attended school in the winter; went to Oswego Normal school; staid a few weeks and went to Fulton to school and staid thirteen weeks; painted during vacation, and returned another term; then taught at Sterling Centre; then painted till September, and after that

engaged with James C. Hunter; boarded at John Hunter's; had charge of the store a good deal; I continued there over three years in charge; then went into the drug business in Clifton Springs; was taken with a bilious attack there; after a month returned to father's, the last of 1874; staid home some weeks; then worked one month for James C. Hunter; then returned to father's, remaining there till April, and after that went to Oswego, remaining there till July; then engaged with Jas. C. Hunter in August or September, 1876; staid there till this happened last summer; slept there at the store; boarded at James'; remember that Lina went to James Hunter's in April, I think of '74; I was in the store then; was acquainted with Proudfit several years; he lived with James Hunter; never had any trouble with him then; had not been very intimate with him; something of intimacy between him and Lina; once I went into the sitting-room and found them sitting together on the couch between eight and nine o'clock; asked my sister to make me a lemonade; she made it and I drank it and returned to the store; have often seen them talking together, but mistrusted nothing till the night I saw them sitting together; knew of no engagement, nor of her situation, till the poisoning; think she left there the 3d of January, '75; I took her to a party New Year's night at North Sterling; she took poison some time the last of January I think; I took her to Sterling Centre several times before the poisoning; I found her many times weeping without apparent cause; found her so once in father's parlor; tried to find out the cause but could not; she was very sad during the month of January; it seemed an effort for her to smile or converse; before this she was very cheerful, never subject to despondency; Lina was the youngest sister; she was less than two years older than I; had been in the habit of taking her with me when I could and she would go; was at Mrs. Smith's when I heard of the poisoning; Dorcas told me of the affair; I don't remember anything that was said or done till we got home; went home with father and Mrs. Smith; after we got home I went into the bed-room where Lina was; she lay on the bed, deathly pale; asked her what made her do it; didn't answer me just then; then she recovered some and said it was better she should die; I staid there a few moments saw a laudanum vial there; I took it into my hand; I saw and read the letter; don't know what was done with it; she was ordered to be taken up from the bed and walked; Mother was weeping violently when I came in; she was trying to attract Lina's attention; don't remember seeing Dr. McKnight that night; don't remember anything distinctly that night after reading the letter, except walking with Lina; had a conversation with Lina the next day; I asked her if that was her only offense; she said it was, as God was her witness; said I would be a brother to her if she would behave herself; asked her how she came to fall; she said she loved Proudfit as she did her life; she would have cut her right arm off for him; she said he promised to marry her before the occurrence; he promised her so lovingly and faithfully that she couldn't doubt him; had two more conversations with her after that, I think; I remember mother's saying that night that it was worse than death to the whole family; told Lina afterwards that we could have buried her if she had died a natural death and always loved her memory; that she had always been a true woman to that time; in the third conversation I asked her if it was her first offense; she said "Ed., it is;" told me that Proudfit brought her two kinds of medicine from Oswego; one

pills, the other a liquid; had no effect except to nearly kill her; I staid at father's about a week; I went to my sister's, Mrs. Smith's; Lina was about at that time; the next time I returned home I asked Lina why he didn't do as he agreed; she said he made the remark that he wasn't quite ready to be married but would be in a short time; that after urging him she told him her condition, and he swore at her; afterwards she wrote to him and he came and she had another talk with him, and then he took his clothes and left; this was the last she saw of him; she often wished she might die; I urged her not to take poison again; saw Lina at the time when the child was born; have frequently seen the child with Lina at home; Proudfit was arrested before the birth of the child; heard of his arrest, and the circumstances from father; I had told father that he was near Charlotte; father came back and told me that he had found him; Lina sent a letter imploring him to come and marry her; father took the letter to him; they stepped back out of sight and Proudfit read the letter; he said he would marry her; he wouldn't go back on her; father wanted me to go to Martville the next day to the examination; I couldn't go; father went and came back telling me that a flaw had been found in the warrant, and that he had left the county before he could get out another warrant; think Lina and mother were present when this was told me; mother seemed completely broken down; wept day and night; have heard her say, "That villain; we remain here crushed to earth, and he at liberty to ruin other families;" before this she had been a very hard-working woman; now her appetite began to fail; sometimes she wouldn't eat anything; began to lose flesh; never heard her complain of any disease; she talked to me of this almost daily; was not at home at the time of the partial paralytic stroke; think it was in January or February, '77; she died June 6, '77; when she was attacked she came in and was walking across the floor and fell without stumbling; she sprained her ankle in falling; saw my mother a few days after; she was sitting up; had a talk with her about our trouble; she said she seemed dying by inches from the trouble that had been brought upon her; said she could not sleep; her thoughts kept her awake; after her shock she had no use of her left side; I went and sat up with her once or twice a week, I think, after this; during this time mother appeared very much depressed; the last time she was conscious was only a few days before her death, I think; she was lying with her right hand on her heart; I kissed her and asked her how she felt; she said "that villain that's killing us all;" I said "what villain, mother?" she said "that villain Proudfit."

[This portion of the evidence was extremely affecting both upon the witness who wept profusely as he gave it in so feeling a tone and manner, and on the immense audience whose tears flowed freely at the recital of the sad, sorrowful, and heart-touching account of the last interview of the witness with his mother, between each of whom there had evidently always been the most sincere, devoted and unbroken affection and fond attachment.]

After this she spoke to me once; we were moving her on to the lounge; I asked her if she knew me; she said "yes, its my dear old Ed.;" I went back to the store and came home the morning of the day she died; think she died just before dark; the church festival was the 22d of June, '77; I had two anonymous letters, received, I think, in April or May; Mr. Hunter, also, at the same time; don't know whom they were from; first letter was that he was

there and that he (the writer) would do all he could to help me arrest him; signed J. C. R.; never knew who it was; I addressed a letter to the Post Office on post mark, with initials on the address; it was returned to me; received a second letter from the same person; same initials and same handwriting; to the effect that he had just ruined a lady there and I must come quickly if I wanted to arrest him; Smith called me away that evening and said that Ben Post told him Proudfit was coming back; don't remember any conversation afterwards that evening; my sleep and appetite have both failed; I have taken chloral to make me sleep; some nights I didn't sleep at all; especially after going home; never troubled with sleeplessness before this; I weighed one hundred and eighty-nine in the winter of '72–73; weighed about one hundred and seventy five, I think at the time of the poisoning. The Tuesday before this happened my brother told me that Proudfit had been seen at Red Creek; father told me a day or so after Charles Smith had spoken to me, that he had settled for his own expense and trouble only; Benton Post had offered the settlement for Proudfit, and father agreed that he might come back as far as he was concerned; Lina knew nothing of this; I said any of us would have given him $100 rather than have taken it from Proudfit. At this time I couldn't fix my mind on anything; could not add up columns of figures; used to carry three columns at a time, but now was scarcely sure of one; couldn't remember what I heard or what I read; have twice found myself in the bed-room that my sister formerly occupied at James Hunter's, without remembering how I came there; don't know why I went; don't remember my conversation with Mrs. Hunter in the bath-room; was told of it afterward; was thinking of mother's death, its cause and her last words, during all this time; frequently dreamed of her; have seemed to see her, and have gotten out of my bed and gone into the other room; this occurred twice; think it was a week or two before the homicide; have dreamed of Lina's child having no name in the world; never made any such statements to Mr. Smith and Mr. Cooper as sworn to, so far as I remember; never had any bloody feeling toward Proudfit; I had a kind of terror of him; had made up my mind to leave town if he came back; I thought he was coming back to torture me; Charles Johnson told me that he could do just as he wanted to, because we were all torn to pieces, my mother being just dead, and all that; never felt fear till I heard he was coming back; first I saw of him was Wednesday before the homicide; Thomas Hunter, 2d, said that he had been in the store that morning; I saw him pass the morning of the homicide; didn't speak with him; was not within eight or nine rods of him; he came into the store in the afternoon; I stood by the desk in the rear of the store, near the post office; Proudfit came up as I stood there, and said "Ed., give me that paper," in a very friendly manner; I handed it to him, and he stepped up to me and said to me, "You've lived through it haven't you?" I don't remember another thing till I stood over him; it seemed as if he had been struck; don't know where I got the club; they often laid on the counters and I had to put them away. Thought I would put him out of the store; had nothing in my hand at the time; had a revolver in my hip pocket, with seven loaded chambers in it; carried it for protection, to protect the store and post office; don't remember Mrs. Hulme's coming there nor any conversation with her; have had a good many dizzy spells here in jail; have not eaten much; have taken but two meals a day, and at many of them wouldn't eat a mouthful.

By the Court. You say you have a recollection of being over him on the floor and that a blow had been struck, now what is the first next thing that you remember? Of meeting my brother-in-law Mr. Duel, I have never for a moment felt that I had any guilt in the matter; I never intended to injure him and never felt angry towards him; it was a feeling different from anger.

Cross-examined. Know Charles Crossman; I do not remember seeing him that day; don't remember that I told him that "I had struck the black-hearted villain;" think I told Stillman that; he asked for his uncle's paper, and then told me I had lived through it; remember this only from hearsay; remember his going away; remember being before the coroner; heard some witnesses sworn; have read some here in jail; read of the trial of Pierce, at Lockport, where the defense of temporary insanity was interposed; was confined in lower part of jail when I first came here, and was removed to an upper room; health was better since that; don't think I had been taking chloral at the time I thought I saw my mother in my sleep; I awoke out of a dream; room in the store was below; seldom went up to the upper part; continued in the store for these many years; had principal charge of it.

Re-direct. I think I never had any disturbance with any one in my life; never was arrested, nor sworn on the witness-stand.

Jailor Roseboom, testified:

I have had charge of Hoppin since October; he acted very strangely when he came there, paying little or no attention to the questions asked him, saying nothing unless spoken to, and then but little. His eyes were red and he complained of having a severe pain in his head; his sister Lina came to see him once, and the next morning he said he felt that he could not stand on his feet, he was so dizzy; he did not eat any breakfast that morning, and only a small piece of bread was gone from his dinner; he ate no supper that night; I asked him if he wanted a Doctor, and he said in a loud, short tone, "No," which was the only time he ever spoke to me in that way; always whenever this sister had been to see him he has complained of his head; the Doctor has given orders not to let her see him any more. Up to October his appetite was poor, and I have known nothing of it since.

Cross-examined. He has written several letters in jail the writing of which seems fair and plain; do not remember of his complaining of being dizzy only when his sister had been to see him; he would weep at these times.

Dr. C. L. George, testified:

I have been a physician about twenty years; I have seen Hoppin frequently in jail, first a few days before he went to the upper room; have seen him after the visits of Lina, once being sent for to see him, after she had been there; his hands were cold and he was excited, and asked him if her coming had not excited him, and he after a time acknowledged that he thought it did, and at my suggestion he consented to have her kept away for a time; I also requested of Mr. Roseboom, that if she must see him, the child be kept out of his sight; his symptoms indicated great nervous excitability; his temperament is nervous sanguine.

Cross-examined. The last time I visited him was last week.

Dr. Lansingh Briggs, testified:

I heard the testimony of Drs. Proudfit and McKnight, at least in part; the symptoms of concussion of the brain are insensibility, remaining for hours or for days; this symptom is invariable. Q. Suppose a blow on the skull made by a ball-club as, and in the region described, and the person falls, but soon struggles to get up, and does of himself get up, would there have been concussion of the brain? A. There would not; I can not conceive that such a blow would cause a rupture of the blood-vessels of the head; there are no very large blood-vessels in that locality; I have known cases where clot was formed in that locality, in which the patient died in twelve hours; the symptoms would be, complaint of pain in the head, stupor and hard breathing. Q. If the patient after receiving a blow of that kind continued conscious for many hours, and said he felt better and brighter, would there be hæmorrhage of the blood vessels of the head? A. Very slight, if any; I regard the treatment of the case as given by Dr. Proudfit as premature: his head should have been elevated; instead of the calomel I should have kept him quiet, putting cold applications on his head and perhaps bled him; the purgatives might have been proper after bleeding; I should have tried to have got along with only one dose of calomel of some fifteen grains, and should not have given anyway but one dose, but should have tried something else; if those doses did not act as a cathartic they would almost inevitably have caused vomiting, and the more they were given, the more and severe would be the vomiting; the effort to vomit so frequently was a result of the calomel, I do not think the vomiting alone would have burst the blood-vessels in the head; the blood-vessels are ruptured from various causes aside from an external injury; from the description of the clot as given by Drs. McKnight and Eldridge I judge it was formed of venous blood.

A blow that separated the dura mater from the skull would not rupture the blood-vessels; while the person remained conscious there could not be much hæmorrhage in the cranium; the vessels having been once opened and closed could have been reopened by vomiting; vomiting, in cases of compression is not a dangerous symptom, neither is it desirable; I heard of no symptoms of inflammation in the case; the convulsions must have been caused by compression; we can judge something of the time of the existence of a clot by its appearance.

Cross-examined. Extravasation occurring between the dura mater and the skull is generally caused by external injury; I think the inner table of the skull must be fractured in order to produce a rupture of the blood-vessels; I have never seen blood between the dura-mater and the skull without a fracture; such statements are reported in the books, but so far as I know no specific cases are given; I judge that the clot described was too much diffused or spread out to cause compression; I mean by concussion, a jar to the brain producing unconsciousness; a blow on the skull may not cause a fracture at that point or place, and yet produce a fracture in some other portion of the skull from which the blood from ruptured vessels would flow up to the point where the blow was received; extravasated blood between the outer and inner tables of the skull would usually be fatal.

Dr. J. D. Button, testified:

I have heard the testimony relative to the wound, but heard no evidence of compression; all the treatment in such cases that I know of as best, are quietude and an elevated position of the head; I know of no reason why calomel should have been given, and the larger the doses and the more frequent, the greater the injury produced; no evidence of the hæmorrhage in the case until the convulsions. The vomiting as described might have ruptured blood-vessels; I can not conceive how the vessels under the blow could have been ruptured by the blow as described.

Dr. Carlos F. Mac Donald, Superintendent of the State Asylum for Insane Criminals, testified that he had heard most of the testimony—all of the prisoner's evidence:

I will ask you further, did you hear the evidence as to the condition of mind of the grandfather, and uncle, and cousin, and sister? Yes, sir, I heard the evidence, I think in regard to his (the prisoner's) heredity. What is evidenced by those symptoms? It seems to me that he was in some abnormal state of mind at the time of the homicide, *assuming the evidence I have heard to be true. Including his own evidence that he was unconscious of the act?* Yes, sir. What do you mean by abnormal? That he was not in his right, or natural state of mind. What do you say, if taking that evidence as true, as to his having sufficient knowledge or will-power to guide him or to know right from wrong in reference to the act?

Objected to.

The Court. I am compelled to sustain the objection made.

You heard the testimony of Mrs. John Hunter, in which she speaks of his condition when he came to her house a week before, and the instance in the bath-room, and his condition of mind there? Yes, sir. And also the walk on the same morning in front of the house, and the gestures, etc., made there? Yes, sir. And you heard him speak—you heard Mr. Hunter speak of his inaccuracy in figuring, and all that? Yes, sir. And heard him speak of his finding himself in places and not knowing how he came there? Yes, sir. And also of his loss of knowledge or having no memory of what took place at the time after he started, until after the blow was struck, you heard that? Yes, sir. What did that indicate in relation to knowledge or condition of mind of the man? It indicates some mental disturbance. What in regard to his having power to control the will? During the time he was unconscious he of course had no power of will. What did it indicate in regard to his having knowledge of the act, if he had no memory of it afterward? It would indicate that he had no knowledge of it—not that his memory was lost, but that his power of attention was suspended during the time. You speak of not being in a normal condition of mind, do you term that some form of insanity? Not necessarily. What do you think about it, *supposing all these facts to be true?* Taking into consideration the hereditary history, together with the conditions which may be deemed as exciting causes, and his temperament, and the continued sleeplessness, it would tend to create a suspicion that he was insane at the time, but I don't think I would be justified in giving a positive opinion upon that point. Is hereditary tend-

ency recognized as one of the strong evidences—in fact a strong force producing insanity? It ranks first as a predisposing cause. What do you say in reference to constant thinking upon one subject, or brooding over one subject for a great length of time; is that recognized as a very effectual cause of insanity or disease of the brain? It is recognized as one of the manifestations of a condition which may lead to insanity, or which might be approaching insanity. Hoppin speaks of going to different places and finding himself, and not knowing how he came there, what did that indicate? It would indicate bewilderment. And disturbance of the mind? Yes, sir, that would be a disturbance, whether temporary or not, it would require futher evidence to determine.

Cross-examination, by Mr. Paine. Might not that be an indication of absent-mindedness in the same person? Yes, sir. The grief he manifested on different occasions when this matter was spoken of, and for years prior to the homicide, is there anything inconsistent in that with sanity? No, sir. The grief in itself was rational? Yes, sir. His actions when the subject was referred to, were in themselves rational, were they not? I should say so; his manifestations of grief were certainly; they were such as would be expected in a sensitive, sane mind, I should think. His dreaming he saw his mother on these two occasions, and going into the other room and discovering immediately his mistake, there is nothing irrational in that, is there? No, sir, nothing *insane* in that, I should say. Does the hereditary history have any particular weight; if there is some physical cause, some physical disease to account for the insanity, that is the fever and ague in his father, and delirium of fever, does that throw any light upon the hereditary history? Not necessarily; still if the father had a hereditary taint that would throw a little upon it. His own father? Yes, sir. The mere fact that his father, while he had fever and ague, was in the delirium of fever and was insane, would that throw any light upon the hereditary history? It would indicate that physical disturbances were likely to manifest themselves in mental aberration. And still the same thing is quite liable to take place where there is no hereditary taint? Yes, sir, but perhaps not quite so likely in ordinary malarial fever. In the case of the grandfather, was there sufficient history given of him and his excitement about the future—his religious excitement—was there sufficient history given for you to say there was insanity in the grandfather? No, sir, merely enough to create a suspicion of it. Being rational upon other subjects and talking rationally at times, and being conversed with upon religious subjects, and being cheerful, and taking that into connection, is there enough to show there is a suspicion of insanity in regard to the grandfather? Yes, sir, I think there is enough for a suspicion that he was suffering from mental aberration. But not enough to furnish any positive evidence? No, sir. In other words you would want a good deal more evidence in the case? Yes, sir, a great deal more evidence than that. If the sister, in addition to her inflammatory rheumatism, had any disease of the brain, water upon the brain I think was the term used upon the witness-stand, would that be sufficient cause to produce temporary insanity? I should think it would. And the fit, or fainting scene, whatever it was, described by the Doctor—Dr. Dewitt? I didn't hear Dr. Dewitt's evidence this morning; he left the witness-stand as I came into the Court House. Suppose she was sitting in a

chair and had been complaining of inflammatory rheumatism in the feet and ankles, and while she sat there talking with him, seemed to faint away, and fell back in the chair like a person dying, as he stated, and remained so for a few minutes, and then coming to, was a raving maniac and delirious, and continued so for some weeks, gradually recovering in the course of a year, what would you say in that case, connected with the symptoms of water on the brain?

The Court. Dr. Dewitt did not state about the water on the brain.

Well, leaving the water on the brain out, take the other matter into consideration, would that be a sufficient physical cause for temporary insanity? The rheumatism? The swoon like a person dying, or fit? I should hardly put that down as a cause, the simple fainting; it would depend upon the cause of fainting away, that might also be a cause of insanity. I suppose if it turned out Hoppin recollected the next Sunday morning what did take place so he could relate it, would that have made any difference in your estimate as to suspicion of insanity? Yes, sir, I think it would tend to modify it somewhat. Would that have tended to show he could distinguish, and had the capacity to distinguish the nature of his act? Not necessarily. Would it tend to show it? It might tend to show it and it might not; I don't think I can answer that question more explicitly than that, because insane people do remember sometimes very distinctly, and have a vivid recollection of an act or series of events, the true nature of which they are not capable of distinguishing. If there was any insanity in this case would it be temporary or transitory? It depends upon what you mean by temporary. What is termed by authors transitory mania? Authors differ in regard to "transitory mania," *or what they regard as "transitory mania."* Of course the fact that there was a strong motive for the act committed would tend very much to weaken the idea or suspicion of insanity? It would somewhat; the absence of motive is generally regarded as a suspicious element. The fact that but little violence was used, does not that tend strongly to show or to weaken the suspicion of insanity, that is that it was not followed by repeated blows? In this case I could not determine very much by that fact; in some forms of insanity excessive violence is characteristic. It is generally, isn't it, in all forms? It is frequently; yes, sir. If it turned out he had talked about this matter to other persons, stating that he would like to see his heart's blood spilled, in speaking of Proudfit; in other words that he had thought about the subject and meditated about it, would that fact tend to weaken the presumption or suspicion of insanity? That would tend to weaken the suspicion that it was an impulse of the moment, but it is well known that insane persons do meditate and watch for an opportunity to carry out an act of violence. When an insane person commits a crime isn't it without premeditation? Most generally I think it is. And laid down by authors as one of the means of detecting whether a person is insane? That is one of the elements to take into consideration in forming an opinion.

Direct Examination, resumed by Mr. Howland. Suppose the party seeks no privacy in the matter, is that an indication as to whether the act was an insane act or not, suppose it is done publicly in the presence of somebody? That may have some weight in a given case, in regard to establishing the character of the act itself. And where a person makes no effort to escape or concealment, what does that tend to show, and feels no regret over it, that

is that he has not done any crime? It tends to show the absence of a knowledge of the act, or indifference as to the result. Where an individual contemplates and premeditates a crime, of course that planning is a criminal act, and suppose he commits a crime, he will be apt to have a realization he has carried out a crime, taking a sane man? I think that is hardly a medical question, what a sane man may do under certain circumstances. In the absence of regret or feeling that the man has committed a crime, where there is no feeling afterward that he has committed a crime? That might indicate unconsciousness on the part of the individual at the time of the act. Would it not indicate there was no premeditation or planning before the crime was committed? I think it would; it would tend to characterize the act as an impulsive one. The fact that he talked about it, and stated he had done it afterward, publicly, is that not an indication of the condition of his mind? I think an individual who does an act in an unconscious state of mind, or rather when he is in an imperfect state of consciousness, may tell of it before he emerges from that condition, and afterward emerge and have no clear, distinct recollection of it. Suppose he talks about it at all afterward, would he be just as likely to say he did it, and talk about having done it and boast of it, if he was insane when he did it, as any other way? Yes, sir, I think he might talk of it. Now his talking of it in that way, would that be any indication of the condition of his mind? No sir, not necessarily. Might it be? It might be. Isn't it laid down in the works that a person committing a homicide in a state of insanity, would be very likely to talk about it in a boastful way and tell about it? Very apt to when it is done under the influence of delusion, or when it is regarded by the person as an act of self-defense.

The Court. Do you see any evidence of delusion? I suppose Mr. Howland refers to the belief which the prisoner had that the deceased might return and torture him, or do him personal violence; I am not positive that was a delusion—it may have been—I don't know. Suppose he never had felt any desire in his sane moments to commit any violence upon this man, and only had felt a dread of his being there, and he had imbibed the opinion in his head he was coming there to annoy him, and there had been no word of the kind, would that be any evidence of delusion? Yes, sir, there is no reason why he should not have a delusion about him as well as about any other person. Now you speak of excessive violence being used and about what is evidenced by that; is it not in cases of homicidal insanity, where it takes a homicidal form, and murder the same, where they use such excessive violence? I think it is more frequently in the blind fury of epileptic mania or frenzy that excessive violence is used. Mental epilepsy is instantaneous? It is sudden sometimes. Isn't it called that?

The Court. What do you mean?

Mr. Howland. I mean manifests itself suddenly like an epileptic fit.

Witness. The epileptic seizure is instantaneous. The bad effect of it is usually sudden? It is usually sudden in the onset. Do you see anything in this case in the symptoms or his conduct there, indicating an aberration of the mind during the progress of that act, for instance, take the act of striking the blow, holding him without attempting to do anything else? I don't know that I could infer an aberration of the mind from those facts stated. Would it be any evidence? Of course, his own evidence of the state of his

mind. The act, as indicated by the act itself? No sir, that is not positive evidence of aberration of the mind. Is it any evidence? No, I don't know that I can say the act by itself, is an evidence of insanity. What you understand by motive, in connection with other evidence, would that be any evidence without any connection with all the ——? In order to give an opinion it would be necessary to take into consideration all the events and circumstances surrounding the act, and then couple that with the entire history of the individual, including his heredity. And in doing that would you give this any weight? I think I have indicated my opinion upon the whole case. There is such a thing known and laid down and well recognized as religious mania? There are cases of mania with religious tendencies of thought. You take a person, an upright, exemplary person, a man professing to be a christian and living up to it as well as he can, and he gets an opinion in his head he is going to be lost, and harbors that for ten or fifteen years, a constant brooding over that, would you say that indicated a condition of monomania? That might be a delusion, monomania is simply mania after all, monomanias are made according to the fancy of the writer in his subdivisions. Would that be an indication of mania? Yes, sir, mania or melancholia. That is a form of insanity? Yes, sir, where there is delusion of that kind, with depression, it would be more properly called melancholia. Now you take a family where insanity is hereditary, you spoke about what was indicated in the father, is that laid down and is it a fact in your experience, is it confined to immediate direct relatives, direct ancestors? No sir, it may sometimes skip a generation; I don't think the disease itself is transmitted, but the predisposition, the tendency to disease, and that the disease may not crop out in a generation, and yet appear in the next generation; that the tendency to disease may skip a generation and yet be transmitted to another. You think a person predisposed by hereditary taint might pass through life without showing it? Yes, sir, and yet his offspring might. What would bring it on? The predisposition would be inherited, and certain circumstances might act as exciting causes to bring on and develop disease. Would great grief and sorrow be an adequate cause? Yes, sir, it is recognized as an exciting cause; some writers would term it a moral cause, but others emotional disturbance, and which finally becomes insanity; assuming insanity to be a disease of the brain, an emotional disturbance may become a cause of insanity. What form of insanity would that be called? That would depend upon the manifestations of it; causes do not really determine the form of insanity. Is there an insanity known as emotional insanity? There are cases of insanity in which emotional disturbances predominate. Any cause which produces cerebral congestion, does that tend to bring on insanity? Cerebral congestion may be an exciting cause, and is in some cases, no doubt. You have read Dr. Hammond's work I have spoken of? Yes, sir, I have read a good many of his writings. Have you ever read Dr. Maudsley's work? Yes, sir, and his Journal. Is he recognized as a standard author? Yes, sir, but I desire to say that in recognizing writers as authorities I do not wish to be understood as endorsing *everything* these writers say. Is he recognized in the profession as a standard author upon that subject? Yes, sir, he is an eminent writer. What do you say about the JOURNAL OF INSANITY, published at Utica, by Dr. Gray? That is a recognized journal in the specialty. It is *the* journal in this country upon that

subject. That is under the superintendence of Dr. Gray? Yes, sir. Of the Utica Asylum for Insane? Yes, sir. Do you peruse that? Yes, sir, I take it and read it regularly, and have for a number of years.

Cross-examination, by Mr. Payne. There are quite a number contribute to that Journal? Yes, sir, a number.

Direct examination resumed by Mr. Howland. Is Dr. Ray a recognized authority? Yes, sir, on the jurisprudence of insanity. Where he treats upon the causes of diseases, is that recognized as authority? Yes, sir, he is regarded as authority on the jurisprudence of insanity.

Cross-examination resumed by Mr. Payne. Wharton and Stillé's recent work on Medical Jurisprudence? Yes, sir, I think "Wharton and Stillé" an excellent authority on medical jurisprudence. Insanity is the result of disease? Insanity is a disease. A disease of what? Of the brain. It indicates a disease of the brain? Yes, sir, a disease of the brain; but that does not define insanity. But it is a disease of the brain? Yes, sir. And does not exist without the brain is diseased or disturbed? No, sir.

By the Court. You do not recognize any disease of the mind without it is a disease of the brain? No, sir.

Direct examination resumed by Mr. Howland. This disease manifests itself in a great many different forms? Yes, sir.

Dr. Theo. Dimon, being sworn and examined by Mr. Howland, testified as follows:

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What do you say as to cerebral congestion being the cause of brain disease? It is a brain disease itself. How may that be produced; how is it produced? By a great variety of causes; emotion is one cause of cerebral congestion. Emotion? Yes, sir. Arising from what? From any affection of the mind or feelings. And the more intense the emotion the more prolific the cause? Yes, sir. Have you read Dr. Hammond's work on nervous diseases? Yes, sir. What do you say as to that being a standard and approved authority among the profession? It is a very good authority in regard to nervous diseases generally, but does not rank quite so high as a work on insanity. What do you say as to hereditary tendency in this matter; the hereditary taint upon this subject? That is recognized as one of the predisposing conditions to render a person liable to insanity, an inherited tendency or taint. Now, as to any nervous diseases in the family, in the ancestors or relatives, whether direct or collateral, being subject to nervous diseases of any kind, what do you say as to the tendency of that upon the mind? That is recognized. As to any nervous disease, whether it be called insanity, or epilepsy, or hysteria, or anything else in the ancestors or direct relatives or collateral relatives, whether that is regarded as having a tendency or being an evidence of insanity, or being a producing cause? The occurrence of epilepsy and palsy, or any marked disturbance of the brain in one generation may evince itself in the descendants. The tendency to that particular form or some other, one of which might be insanity. A person dying of palsy his children may have palsy or be insane. Suppose a person has palpitation of the heart? That is too indeterminate. Is that a nervous disease? Sometimes it is. And how about paralysis? That is always a

brain or nervous trouble. What do you say as to the effect of continual thinking or brooding over any subject of great grief for years, what is the effect or tendency upon the mind in such a state of things, as a producing cause? It is liable to produce a diseased action of the brain, and may manifest itself in some form of insanity. Now, you take a person predisposed to that by hereditary taint or any other causes, and what do you say as to dreams; to just a dream sometimes being the first kindling spark that brings out the insane condition of mind? I don't see much connection between simple dreaming and the production of disease, after the sleep is over. Is that laid down so in the books? It is sometimes spoken of as one of the first manifestations of a tendency in that direction; certain classes of dreams repeated the same way and disturbing sleep. What do you say as to there being a form of insanity called emotional insanity? I am not in the habit of recognizing that as a class; it is a manifestation of insanity; it manifests itself in delusions; insanity sometimes takes an emotional direction. May this condition of things result from sudden causes? Yes, sir. And also from those that come slowly upon the person? Yes, sir. Now, in such cases of insanity is there necessary, or is delusion an indispensable symptom of the case? Delusion, hallucination and illusion, and incoherence, some one or more is necessary to make out insanity. But not all? No, sir, not all. May there be such a case as insanity without delusion? I would put in insane delusion; simple delusion is not insanity, and hallucination may not be more than a tendency that way. I ask whether a person may be really insane without delusion? I rather think not; it is possible there might be a degree of insanity with simple hallucination; I think delusion is an essential element of insanity. How do you define delusion? Since I have had to testify upon that subject I have written out my opinion and I will read it. Reads: "An insane delusion is the belief that false or imaginary perceptions are true or real; or that false or imaginary ideas or conclusions are true or real; and that contrary to the individual or common experience of mankind." That is your idea of insane delusion? Yes, sir. And these delusions may be in regard to almost any subjects? Yes, sir. Or any conceivable thing? Yes, sir. How in regard to a person's forming an idea that a person is coming to hurt them or injure them, and brooding over it, when there is no such fact, or evidence of such fact? That would be an insane delusion, if there is no reason to base such a belief upon. Are homicides sometimes committed under an emotional insanity or disturbance of the brain?

The Court. I do not understand the doctor to have recognized any such form or species of insanity.

I will say insanity then without qualifying terms? The question is whether a person under the influence of emotional delusion, will suddenly commit homicide? Yes, sir, such cases have occurred. Do they frequently, in your experience? Homicides are not frequent to my knowledge: taking the whole class of insane with homicidal impulse, their numbers are not very large in proportion. Do acts which are committed under the influence of insanity sometimes closely resemble those done in the heat of passion as to the act itself? Yes, sir. You have heard the evidence in this case? Yes, sir. In regard to the whole of this history of the defendant's troubles, and his conditions and symptoms of mind, including his own evidence of what took place upon that occasion? Yes, sir, I heard the whole of it. Now

what do you say, what do those facts indicate as proven? There seems to me to be some evidence of heredity in the case; the uncle had insane delusions and his son had hallucinations, and the prisoner's sister had acute, tending towards chronic mania, *according to the testimony*, and the mother died of palsy, and the grandfather had religious melancholia.- *I am not positive that in the medical sense melancholia existed*, but I think the testimony created some suspicion of that, and perhaps those things go more to indicate possible hereditary taint. The long continued disturbance of the mind by a family misfortune, and the evidence of disturbed and impaired nutrition is given; of some sleeplessness; of frequent brooding and disturbance of the mind; and the health from this same cause; and finally some evidence that the person had got a belief contrary to the persuasion of his friends that the presence of this individual was a torture to him; that his coming back and coming to the place for no other purpose than to torture him; that he believed that this individual intended that in coming, gives me a suspicion of a delusion upon that subject. The fact that in this state of excitement described, his head was hot and his extremities cold, and that that occurred frequently, establishes a presumption of temporary and repeated congestion of the brain. Taking all those things together, and this account of his condition at the time of the transaction, before and afterward, and of the fact that a fully sane person would be strongly affected under the influence of so strong an emotion as ordinarily belongs to the formation of a marriage contract, that he should commit such an act as this immediately afterward and in the manner in which this was done, seems to give me an impression and an opinion that it was not a sane act; *though I can not say there is positively enough made out for me to give a decided opinion to that extent;* it creates in my mind a strong presumption that that was not a sane act. A person being in the condition of mind you have been describing here, what would be the tendency if the person in regard to whom the delusion existed, should come suddenly in upon them and bring it up before them by the remark, "*You* have lived it through, have you," what would be the effect of that upon the person; might the object of the delusion appearing at any time and under any circumstances set the delusion in action? It would have a tendency to do it. What do you say as to the fact, if it was a fact, that this was done without any secrecy and publicly and in open daylight, and in the presence of others, what would that tend to show? That in itself, taken consecutively, and taken in connection with all these other groupings of facts as I understand them, would be what would be expected in such cases where there was a delusion. He would talk about it? He might talk about it and boast of it in private, and an insane person might conceal such a thing. Suppose it was done in the presence of a man whom he knew? It goes to show to my mind simply the fact that *it was not a premeditated crime, it was done on emotion existing at the time*, either an insane delusion *or a fit of passion*. Suppose when he comes forward from the back part of the store, he walks all the way without any particular expression of passion or anything of that kind, and no word being said, what would that indicate? Persons vary under passionate excitement, about the method of expressing it. What do you say as to the fact of his having a revolver in his pocket and not using it, would that indicate anything? It would indicate that *there was not a formed design to commit homicide*, the

fact that he did not use the best means to accomplish it. An insane person may design murder or may design homicide; that in itself does not in my mind amount to much of anything. Did you hear the evidence in relation to striking the blow, and the manner in which the blow was struck? Yes, sir. And then what took place afterward? Yes, sir. Of the person falling and he going and taking hold and holding him down, you heard that? Yes, sir. And then running out towards the back door and coming back again soon? Yes, sir. Is there anything in that taken in connection with the other circumstances, showing the condition of his mind? Perhaps it has some slight connection, *a confusion or weakness of mind*, it was rather a childish method of doing it. You have heard it related here by himself and the other witnesses, about these continued emotional disturbances, or whatever you may call them, and the grief and the expression of it for two years before? Yes, sir. Would they tend to the result you have been describing? Yes, sir, they would, perhaps, have such a tendency. What would you say if he talked about it afterwards to different individuals and does not remember what he said about it, would that indicate any condition of mind particularly? It would indicate unconsciousness, an entire unconsciousness of what he was doing at the time. In cases of premeditated homicide, would a person after it is over recollect it usually, a sane person? I suppose they do. There would be no want of recollection in such cases? No, sir.

Objected to.

How in regard to the forgetfulness of it, would that indicate any condition of mind? That would show a loss of memory about it. Does it have any bearing upon the question of premeditated design or intent? It would show more the present condition of mind than at that time. His having no consciousness of crime, would that have any bearing? That goes to show the state of the man's brain and mind at the time. That it is thus unconscious? Yes, sir. Now is there anything in the act itself by which a person can judge whether it is a sane or insane act usually? Not often; sometimes it constitutes one element. Suppose you step into a room at the very time that a man draws a revolver and shoots another, would you discover anything in the act itself that would show his condition of mind? No, sir, not in the shooting simply. You would have to look to other circumstances to indicate that? Oh, certainly. How about an insane person when he commits an act, does he attempt any secrecy or avoid telling of it? Usually, I believe not. Insane persons may plot a crime? Yes, sir. With a good deal of tact? Yes, sir, and usually a great deal of cunning. In such cases would they be apt to secrete the matter and not tell of it? They might and might not. But where there was no premeditation and no thought of having committed the act and no consciousness of having committed the act, would there be any attempt at secrecy? I should suppose not. The fact that a person does not make any effort to escape after committing a homicide, does that show any condition of mind? Alone, that shows that he considered what he did justifiable. That is, if he considered anything about it? Yes, sir. It would go to show he was not conscious of committing any criminal act? It would simply show in itself alone, that he did not think he was doing anything wrong. Isn't it laid down by Dr. Hammond that an insane person, a person who commits homicide in an unconscious state does boast of it to his friends and tell of it? Yes, sir. And if he is in an insane condition he will talk

about it beforehand? Yes, sir. And make no secrecy at all? No, sir. Did you hear the evidence of Mrs. John Hunter in regard to his going there about a week before the occurrence, and calling her into the bath-room and talking with her there? Yes, sir. And his appearance and condition? Yes, sir. What did that indicate? *From her description of his appearance it indicated a strong cerebral excitement;* perhaps congestion of the brain.

The Court. Explain what congestion of the brain is? It is undue, abnormal, increase beyond the natural amount of blood that ordinarily circulates inside the head that does not return from the head; too much in it. Cerebral congestion would be in that portion called the cerebral portion? Yes, sir. I asked you the causes that produce it? I gave you one and supposed that was what you desired. Any cause that produces great excitement in a person creates sorrow or joy? Yes, sir. Or any very exciting cause will have a tendency to produce this cerebral congestion? Yes, sir, one of the worst cases I have had was produced by fire in the house where the person lived. That is produced by throwing an enlarged quantity of blood in the brain? Yes, sir. So it forms a congestion? Yes, sir. And has temperament a great deal to do with this, the peculiar temperament of the person? Some persons are more liable to it than others. More sensitive and quicker to be acted upon? Yes, sir. And more apt to have these results follow? Yes, sir. What are the symptoms of the disorder, cerebral action from congestion? They are very numerous. I will ask what would be the temperature of the head? It is generally increased. Hotter? Yes, sir. And in such cases what would be the temperature of the extremities generally? Cold. There would be no equilibrium throughout the system? No, sir. Will pain in the head sometimes be the result, a headache? Yes, sir, that is one of the first signs generally of the condition—pain in the head. That is caused by this congestion? Yes, sir, and dizziness and vomiting. Will such a state of things be apt to exist through a term of years? It is apt to. In such conditions would there be any different appearance of the eye from the usual appearance? The eye is generally injected with blood and looks red and bloodshot, and sometimes the pupils are dilated.

Cross-examination by Mr. Payne. At the time of the commission of the homicide and the facts that attended it, which occurred there in the store, what is there, what circumstance is there inconsistent with the acts of a sane man acting under strong excitement, and with a powerful motive? Well, I only recollect what impressed me at the time by the description by the first witness, Cooper, that he turned and looked out of the window behind him; that he moved at only an ordinary gait down the passage-way behind the counter, and did not look at the other man but once, a single glance, it struck me as not the way in which a person acting under a passion would be very likely to act. What part was not a sane man likely to do? I did not say a sane man; I said a man acting under a fit of passion; the deliberation in which he moved down; his looking first in another direction; not keeping his eye on the object he was going to attack, was not the way I suppose persons in a passion, who are going to assault another, generally act. You don't see anything insane in that? That particular circumstance has no great weight, one way or another; there is no telling how persons will act under emotion. What was one of the acts there in the store that indicated insanity? I know of nothing but what I have stated, that would indicate

insanity, but what I have stated on the direct examination about the childish, weak character of the attack, and the striking a single blow, and dropping the club, and seizing the hands, and then running away. Suppose that blow accomplished the object of the striking down of the vict'm and he lay down the club, there was nothing childish about that? If he intended to commit a homicide it certainly was. State whether it is inconsistent with insanity. No sir, as I said before, it is only in connection with the whole grouping of the evidence that it could have any weight whatever. In itself alone it does not indicate anything. The laying down of the club and afterwards taking hold of him is not inconsistent with the idea of sanity? No, sir. And remaining there until pulled away is not inconstent with the idea of sanity? No, sir. His giving a reason for striking him when he met another is not inconsistent with the idea of sanity? No, sir, that would have the contrary bearing, if any. It tends to establish sanity if anything? Yes, sir, for a conscious motive for what he was doing. And if the remark made by Proudfit in regard to his having lived through it took place at the time it did, the attack being an open one, made there in the store, that fact is not inconsistent with the idea of sanity? I don't know that I understand the first part of your question. The question asked by Proudfit as related by Hoppin, if he had lived through it, or words to that effect, and his attack made afterward as he passed out behind the counter, although openly and in the presence of another, is not inconsistent with the idea of sanity, is it? No, sir. And the attack having been made openly and in the presence of the witness, the fact that he afterwards gave to his friends his version of what transpired is not inconsistent with the idea of sanity? No, sir, taken by itself it is not. The manifestations of grief previous to that are not inconsistent with the manifestations of a sane man, are they. No, sir. Of course, doctor, there is a stronger probability of the person being insane if the taint is in a direct line, is there not, than if it is in a collateral; for instance, in the direct line of descent instead of being his cousins? Yes, sir, you bring in another element when you come to the second generation; the heredity in the case I suppose is in the direct line; the mother or cousin might bring it in. It is necessary to know something about the history of the mother and the line of descendants there? Yes, sir. And the more remote it becomes in that particular the less value it has as evidence? Yes, sir. And all that goes to show—that is the hereditary history of it goes to show—there is a liability to insanity? Yes, sir, a liability or tendency. And has no further value as evidence? No, sir, it is all hereditary except in a few instances, it is the tendency of them.

Direct examination resumed by Mr. Howland. When you go back to the father and mother in the line of heredity, if you find it in both the father and mother, on both sides, wouldn't the hereditary tendency be increased? Yes, sir. Would you judge of any insane man's act or his condition of mind by any isolated transaction? No, sir. Or even several together? No, sir, without that transaction in itself was the evident result of an insane delusion. You would want to know more of them? Yes, sir, to know what was in the man's mind.

Cross-examination by Mr. Payne. Looking on both sides of course if there is evidence of insanity in the hereditary history, that furnishes some presumption there is a liability to it in the descendants? Yes, sir. But evi-

dence of simple paralysis does not present as strong evidence? No, sir, not so strong, but yet very decided. It is evidence of nervous tendency? It comes pretty near home; I know of the death of a father by palsy at seventy-nine; one of his sons was twice insane and two of his other children were palsied. I always ascribed it that they inherited the same temperament the father had and I ascribe that to hereditary taint. How many children were there? Six other children. Nine children? Yes, sir. And one out of nine had two attacks? Yes, sir. Did they have any disease other than disease of the mind? No, sir, a diseased brain; they recovered; they were cases of cerebral congestion, only lasting six or eight months; a mania.

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REBUTTAL.

STILLMAN COBB:

I read the warrant to Hoppin; he said his name was Edmond, instead of Edward, as on the warrant; had a conversation with him next morning; he told me of the affair in the store; he said he had given Proudfit his mail, and Proudfit said—"you've lived through it, haven't you?" then he followed him and struck him; I left him Sunday morning in charge of Walter Hughitt; didn't know that Proudfit was dead then; this was over two miles from Sterling Valley; I first learned of Proudfit's death during forenoon; Hoppin was with me; I told him of Proudfit's death when I handed him the second warrant, Monday morning; he said he had rested very well; during this time I was with him all I noticed was that he walked with his head down and didn't converse much.

Cross examined. Sunday morning at Mr. Hughitt's he spoke of striking Proudfit; I left him alone along toward Sunday morning.

ELIAS VAN VLECK, testified:

I live in Sterling; after the blow was struck and on Saturday about 2 P. M. I asked Hoppin what conversation he had with Philip before he struck him and he said Philip came in for his mail and called him in a sneering tone by name and he could not stand it.

Dr. JOHN B. CHAPIN, being called and sworn for the people and examined by Mr. Payne, testified as follows:

* * * * * * * * * *

You have heard the evidence on the part of the defense in this case, in reference to what occurred at the house of Mr. Hoppin at the time Lina was discovered at the attempted suicide? I have. And the narrative since that time of the members of the family? Yes, sir. And also the testimony of the defendant himself? Yes, sir. And his account of the transaction, of what was done at the time of the homicide? I did. Did you hear the evidence of the people of what took place in the store at the time of the homicide? I didn't, I was not in attendance on Monday. What do you say from all the evidence you have heard—you heard the evidence also in regard to

his father and grandfather and one sister and a cousin in Michigan, did you not? I did sir. Taking all you have heard into consideration as true, what do you say as to the condition of the prisoner's mind at the time of the commission of the homicide? In my opinion *he was laboring under very strong mental emotion.* What do you say as to his being insane? I could not express the opinion that he was insane at that time. Laying out of the case his account of that transaction and what he says in regard to his remembrance of it, and on the hypothesis that the motive existed which has been testified to here, that this was the second occasion on which he had seen Proudfit; that he came into the store and addressed him as "Ed." and asked him if he had lived through it, and asked also for his uncle's paper; that Hoppin handed him the paper and walked out behind the counter, nearly opposite Proudfit, and as he came to the end of the counter, raised a club, and struck him a blow with considerable force upon the head; that then he laid down the club and sprang upon Proudfit upon the floor, and held him there until he was pulled away, and until Dr. Proudfit raised the club and threatened to strike him; that he made the remark, "don't let him strike me," and then let go his hold of Proudfit and ran out of the back door, meeting his employer, Mr. Hunter, near the door, and stating to him, "Jim, I couldn't help it, he killed my mother," and soon after returned, and taking into consideration all the rest of the facts except the prisoner's account of the transaction, given upon the stand, what do you say as to his mental condition at the time of committing the homicide? I should say he was laboring under very strong emotion and passion. As to his sanity or insanity? I could not express the opinion that he was insane.

The Court. Do you mean by that that you do not see evidence to compel you to that opinion? Not sufficient evidence to establish a condition of insanity.

If he had been insane at the time would you have expected evidence of insanity to have followed from that time down to this, at intervals? I would have expected evidence of insanity to follow, but not necessarily to this time. You would have expected some subsequent evidence of insanity, between that time and this? I would. Do you see anything in the history of the case prior to the homicide inconsistent with the actions of a sane man, with his temperament, placed under these circumstances? Well, I think I do. What is it? That involves going somewhat into the case as it presents itself to my mind. I don't care to ask that? I will add to that answer that on the assumption that this prolonged depression which seems to have been real here was founded upon a fact—upon a cause capable of exciting that condition in a sound mind, it would be explainable; if that cause was inadequate and did not exist, it would involve a condition of insanity or a suspicion of insanity. Then you mean to say that throwing out of the case the cause of the disease, if that did not exist in his belief, that the long depressed condition would be evidence of insanity? It would be evidence of a change of a suspicious character, and in that direction. But taking that fact into consideration that he did believe in that state of things; that he had credible evidence to that effect, and no evidence to the contrary; that all these causes did exist; I should then say that the condition which is described would be accountable on the supposition that the man was a sane man, but of a highly sensitive and emotional character; different persons would receive such in-

telligence as he received, differently, but I think the conditions presented here to the defendant's mind are consistent with what might be expected in his case to follow the various experiences he had during the last few years. Taking that into consideration you think it entirely consistent with the actions of a sane man? I should prefer to answer as I did before; I could not express the opinion that insanity existed.

Cross examination by Mr. Howland. Would you want to hazard an opinion if it did not exist? If he was a private patient of mine and I was called upon to give a certificate I could not consistently do it. You would say he was not insane? I see no sufficient grounds to express the opinion that insanity existed. You see no evidence or symptoms of insanity? I see some suspicious indications. What are those suspicious indications? Depression. In what particular? Melancholia, and the depression spoken of and the weeping might be symptoms of insanity. Anything else you remember? The sleeplessness, a want of ability to sleep, and some indication of an impairment of the power of attention, but whether that was natural or the result of this condition I could not state. Anything else you recollect you have heard in the testimony that is suspicious? Well, I took no other prominent symptoms; there was one suspicion that was suggested to my mind there might be a delusive idea in the mind of this man. What was that? The defendant announced *in his own testimony*, and I think it was testified to by others, the apprehension he felt of the return of this person, and the object of his return to harrass and annoy him. What did that show? It showed if this person formerly believed that and acted upon it at the moment of the homicide, there would be a strong connection between the delusive idea and the act itself. If he believed this man was coming back to annoy him? Yes, sir. That would go to show that in that respect———? If there was no evidence to establish the fact that he was not coming back for that purpose, and nothing to lead him to believe he was coming back for that purpose, but I do not think it is sufficiently brought out. Would it be a circumstance to your mind to show there might be a delusive idea there? I can not say any more than it creates a suspicion. Wouldn't you regard it as something of a delusion of the mind if there was no accounting for it? Well, I think all that can be said is it might create a suspicion. Suppose he had that firmly fixed in his mind for three or four weeks before this happened, having heard this man was coming back there, and having passed through all these scenes that have been related here, and being enfeebled in health and strength, and impaired in intellect to some extent, as shown here, and he forms the idea without any real foundation for it: that that man is going to return there and injure him, and annoy him and hurt him, would that be a delusion? I think it might become fixed in the mind of a person. And might it not become a chronic idea, an abiding fact in his mind? It is possible, quite possible, in the state of mind this man was reputed to have been in. Did you hear the testimony of Mr. Hunter in regard to his figuring at that time? I did. About making false entries and misstating them? I did, sir. Would that be a suspicious indication, or raise a suspicion that his mind was not right? No, sir. Isn't that laid down as one of the——as a very strong symptom of an insane mind, that is, where a person has been accurate in figures all his life and becomes inaccurate, or he does not make accurate entries, and when he is called upon subsequently he can not do it, and

seems to have no memory on the subject, would that be suspicious? The memory of some persons depends very much upon the attention they give to a subject: if this prisoner's attention was directed in another quarter it would explain, I think, the circumstance mentioned by Mr. Hunter. But suppose his attention is called to it and he undertakes to do it, and tries to recollect and explain, and is unable to do so from an apparent want of memory, what would you say? I could not answer that. Is it laid down in your approved authorities as one of the symptoms? What is laid down? That fact? Do you mean loss of memory? No, sir, not loss of memory, but take an act occurring within a day or two, where a man has made entries in a book, and, for instance, entered a pound of tea and carried out the price ten pounds, and on several occasions it occurred, and when his mind is called to it by his employer, on the same night probably, he tries to straighten it and can not do it, and can't explain it? It is laid down as a symptom of dementia, as a symptom of paralysis and other forms of disease which this man did not have. Of mental disease? Other forms of disease. Is it laid down as evidence of insanity? Yes, sir, forms of insanity. What form of insanity would you say that would be evidence of? Advanced dementia and general paralysis, and there may be other forms: I could not state, it has certain characteristics of those forms. Would it be a manifestation of a weakening mind? It would be an indication of a very advanced state of deterioration. Would it be an indication of a weakening mind? No, sir, it would be an indication of an advanced state of disease. Of what disease? Dementia and the disease described in the books as general paralysis. Of any other form of insanity, would it be evidence of any other form? It depends from what this condition arose; if it was want of attention it might be a first indication of acute mania, when the person paid no attention to business, and might have been an indication of different diseases where the power of attention might be utterly broken down. Isn't it hard to separate the symptoms applicable to one form of mania from other forms of mania, do not the same symptoms run through all forms of mania? I think there are some symptoms that do. Doesn't this symptom run through all forms of mania? I think it does. Do you say a person troubled with an insane mind would not be interfered with by this symptom? I have known insane men to conduct business for years. And they are sometimes expert mathematicians; they retain their former usual qualities in that respect? Some do and some don't. Some will compose very readily articles on scientific subjects, and very difficult articles? Yes, sir. And write very valuable articles, will they not? Yes, sir. When they are insane and labor under some forms of mania? Yes, sir. Do you recognize different forms of insanity, different classes? I recognize different manifestations of insanity; I do not recognize that they are distinct forms of disease. May not a person be insane upon some particular subjects and sane upon others? I doubt it, sooner or later they will break down generally; a man's case don't close until he dies. What would you call it when a man appeared to be insane upon one subject and rational upon all others? I should say he might have delusions and might be insane; *I don't believe in the existence of monomania.* You don't believe there is such a thing? No, sir. You don't believe a person can be a monomaniac on one subject and the rest of the faculties not involved? No, sir. You think of the brain as an entirety, and that an affection of the brain affects all the facul-

ties of the man? That is my belief. Is that a doctrine laid down in the books? Some do very decidedly; I think for the convenience of the subject certain manifestations are classified, and the idea is sometimes gathered that those classifications mean distinct diseases, when the authors do not convey that idea. Do the authorities convey the idea that some persons may be insane upon one subject and not upon others? I think there has been such a division made of insanity. So far as the manifestations of insanity are concerned? I don't think that view is the generally accepted view of the profession. Can you mention any author that does not accept it as a correct view? Well, if you will state any author that does you must establish in the first place the existence of your proposition; I will mention Dr. Gray for one. Dr. Gray of Utica? Yes, sir, I think he has been mentioned as an author, as the editor of the JOURNAL. Does he accept that as a settled fact? He does. That there is no such thing as monomania? He does. What I want to know is whether those manifestations of the disease are not laid down as distinct forms of mania by the authors? If you mean distinct forms of disease. Yes, sir, called monomania? I don't understand they are, I understand insanity to be a disease, or certain manifestations; these manifestations are sometimes classified, and when persons have delusions in a particular direction, the authors for convenience, have sometimes described those delusions as meaning a certain disease; if a person has a disposition to homicide, that form has been described as homicidal impulse, or homicidal insanity, but I do not recognize any such form of disease. You recognize such a form, the manifestation of disease? That is a different thing. Do you think that? I recognize certain patients have certain delusions, in certain directions. Take a person like this, with indications of homicidal mania, and no other indications of an insane mind, what evidence have you that his whole mind is involved? A man proceeds to execute a homicidal purpose as the result of some delusion, and behind that there is the action of the understanding and mind and judgment, and he simply sets his will-power to the execution of his purpose as clearly as any in a state of health proceed to execute a purpose; there is no more mystery about it than in the case of one in health. What evidence have you got that that man is insane upon other subjects if he don't manifest it? Well, persons proceed in a state of health to execute certain purposes; there is the understanding of the mind and judgment, and then again we have the will-power to bring about or accomplish the purpose, and so in a state of "homicidal impulse" the person may have a delusion—they always have some delusive idea and proceed to execute the purpose by the will-power. Take a person who simply executes a homicidal mania, and if that is all he manifests upon that subject you would find him rational in regard to his other acts? I don't think you would; I might not discover anything upon examination. Then he would manifest it in all other acts? I wouldn't expect him to be rational in all other respects. If there had been no cause for Hoppin's dejected spirits, his troubles and weepings and strange actions, if no adequate cause appeared for it, then you would say he was insane in doing it? That would be a strong presumption. Wouldn't you almost come to the conclusion he was insane? I think I would. Does insanity come from some cause, some real cause sometimes? It very generally does. It generally does? Yes, sir. Wouldn't these things be an adequate cause to produce it even they were real? Well, I would say

in answer to that, that domestic trouble and grief are frequent causes of insanity; whether in any particular case it would produce insanity I am not able to state. You can say it might produce it? I can. Would continual sorrow, and brooding over any particular subject, even if real, would it tend to that result in your opinion? It would tend in that direction. And would it be produced or brought about by the agencies described here by the other physicians, this cerebral congestion? I could not say about that. Wouldn't it be quite as likely—wouldn't a man be quite as likely to become insane by brooding over a real cause of trouble as over fictitious ones? I think not. You think it would be less liable to produce a bad effect upon his mind? Yes, sir. The subjects you have under your care and make a specialty of, are confirmed maniacs? They are, they are cases of longer standing as a rule than one year. And incurable? Very few are expected to recover; probably not fifteen in the whole number will recover. You have but little to do with patients in the incipient stages? Very little in the asylum. These men brought under your care, do they have much of any medical treatment? They do, every patient is visited every day by a physician. Do they have treatment? If they require it they receive it. They do require it? They do, a large number of them. Do you attempt to treat them excepting their physical condition?

The Court. That is all they ever attempt to treat them.

What do you say about the subject of hereditary taint or tendency? That is a very strong predisposing cause. Isn t it considered one of the strongest causes? I think the most frequent; that is my judgment, it is the most frequent. And, of course, there would be no difference what form of insanity the ancestor had, it is all the same thing? No, sir. Would that be one of the first things you would look for in a case where you were not perfectly satisfied from the appearance of the party—would that be one of the first things you would look for? If there was any doubt about the case it would be the first inquiry I think. Can an insane person, or what you call an insane person, control the will-power, control the will? That is pretty general; we say the will is impaired. Could you say as strong as that, that they could control it? Yes, sir, they do control it, the whole discipline of the asylum is on the power of the patient to control it. It is by acting through their rational qualities you control them? Yes, sir, through their power of self-control. Do you recognize the fact that an insane person can not control his will-power, in any case? We all recognize that. Now, how soon would you expect to see a return of insane spells upon a person who committed homicide, about what interval would occur? I could not answer that question. Is there any definite rule? I could not answer any question of that kind; I don't think the question admits of an answer. You said as I understood you, you would expect to see something of it? I didn't say so; I said there would probably be some indications of mental disease; I intended to so answer. You think there would be some? I do. So, of course, as to any definite time there would be no definite rule? I should expect it to continue right along. Is it not laid down in the books, and is it not a fact that persons will have manifestations of insanity and get over it, and sometimes go a year or two and then have a return of it, or even two or three years? Yes, sir. That is not uncommon? No, sir. And will not the time in which a recurrence of these insane spells come upon them depend a

good deal upon their condition in life and surrounding circumstances? I think it will. And be controlled almost entirely by that? I could not state what influences bring about those attacks; they do return.

Direct examination, resumed by Mr. Payne. You would expect to see some other insane acts following the commission of the homicide, would you not; assuming the patient was insane? Yes, sir, I would. And you would expect the insanity would last for some length of time? I don't think there would be any rule about that. It is what you would expect ordinarily? Yes, sir, a continuation of the disease. The force of any hereditary tendency would depend very much upon whether there was a local disease that caused the insanity in the ancestor, would it not; in other words it would depend whether it was the delirium of fever, or whether insanity was the only disease? The delirium of fever would have no influence whatever, it would be an insignificant circumstance bearing upon insanity. You heard the evidence in regard to the grandfather of this defendant? I did. Was there sufficient evidence there for you to predicate an opinion as to whether he was insane? I should say not sufficient, but I should think he was an eccentric person at least, and it might have been more; I do not know that it appears that he was carefully observed; I think there was sufficient to establish that element in his character.

Regarding the two vital issues involved in the trial, the learned Judge charged the jury, as follows:

* * * * * *

The first question for you to decide is:—was that death caused by the prisoner at the bar? It is proved, and not controverted, that at three o'clock in the afternoon, on the thirteenth day of July, about thirty-six hours before the death of Proudfit, that he was struck by the prisoner, a blow which has been described, and the effects of which are now in question. It was a blow with a base-ball club upon the fore part of the head, and possessed of force enough to fell him to the floor. It did not render him unconscious, or only momentarily so, for he struggled to rise, and as soon as permitted by the prisoner, he did rise, spoke intelligently, and walked, without assistance, to the office of his uncle, where his wounds were dressed. You remember, distinctly, the narrative of the progress and development of the disease which resulted in death. The immediate cause of that death, as disclosed by the evidence of the post-mortem examination, was the formation of a coagulum or clot of blood extravasated within the cranium, between the skull and the dura-mater, which is the outer membranous covering of the brain. This extravasation of the blood produced compression upon the brain, and this caused the death of the patient. The important question for you, gentlemen, upon this branch of the case is:—was this extravasation of blood, which resulted in

the formation of this clot, which produced the compression on the brain, which caused the death, the result of the blow inflicted by the prisoner at the bar? I shall not dwell upon this question. You will remember it, and it has been fully and ably commented upon by the counsel on either side. The rules of law applicable to this question are simple. The homicide is to be attributed to the prisoner at the bar if death was the result directly or proximately, of the blow which he struck; if the death would not have resulted but for the physical efforts of the blow—no matter what act of imprudence the patient committed—the homicide is still attributable to the prisoner. The law is not so unreasonable as to tolerate the proposition that a murderer, or one guilty of murderous assault shall escape the consequences of his crime, if he can show that his victim, after passing through his hands, fell into the hands of blunderers or had incompetent surgeons. There is no question of malpractice in this case; if the blow was either necessarily fatal, or had, in itself, fatal tendencies, and the death resulted from the development of these tendencies, by no treatment of the case, however negligent or unskillful that treatment may have been, the death is in the law attributable to the blow. But, if on the other hand, the blow was not itself necessarily fatal or of fatal tendency, and the death was produced wholly by the surgical and other treatment and other cause, independent of the blow, then the death is not attributable to the blow nor the homicide to the prisoner at the bar. This question which I have attempted to define with such particularity, you will decide reasonably upon the facts of the case. Have you a doubt, an honest, reasonable doubt, under the circumstances shown, that the blow struck, the force of the blow demonstrated by the immediate effects, the resultant coagulum or clot of blood in the head, in almost, if not quite, the immediate region where the blow fell on the skull—all circumstances which are proved here—have you a doubt on the question whether this extravasation of blood was due either directly or proximately to the striking of the blow by the club in the hands of the prisoner at the bar? If you have this reasonable doubt about it, that ends the case and your verdict must be an acquittal.

In this case you have the experience of experts; they are persons, who, by reason of study and experience in any particular art or science, attain a knowledge beyond that possessed by men ordinarily, and in view of this special wisdom and experience, they are permitted, contrary to the general rules of evidence, to

express opinions on the stand as witnesses. Their theories are of no value whatever. A mere theory is not competent evidence for a jury, and if it comes out in the case it should be dismissed from the attention of the jury in considering evidence. But the opinion of a man specially skilled in a particular art or science, is permitted to be given for the information and enlightenment of the jury, and for no other purpose. These opinions are not decisive, but are received as I have said only as aids to the jury in forming their own opinions.

The Judge then gave an exhaustive definition of the various degrees of murder and manslaughter, and proceeded as follows:

But, gentlemen, the defense in this case is that this person, when he committed the act of homicide with which he is charged, was not a reasonable and accountable being, and, therefore, unaccountable by reason of insanity. The law holds to criminal accountability only reasonable beings, capable, not only physically, of the act charged, but of judging of the moral quality of the act, and intending to perform it. There must be as a condition of accountability, consciousness of the act performed, and ability to judge of the moral quality, whether right or wrong. Any insanity, from whatever cause, must be such as to deprive the subject of one or the other, or both of these requisites of accountability, or the subject remains accountable. The varieties of insanity may be said to be infinite, down to absolute dementia and imbecility. It has even been said and become in ancient times a proverb, that no man is always sane, and it may indeed truly be said that there are few men living, or who have lived, who can boast of an absolutely, perfectly sound brain, any more than of a perfectly sound physical constitution in any other important particular. If this is so, it is clear that it is not every case of unsoundness of mind resulting from some diseases of the brain, which shall excuse men and hold them unaccountable for a crime.

If this were so, the laws against crime could scarcely be enforced, by reason of this defense of insanity. It is only such unsoundness, then, or insanity, as deprives the agent of the consciousness of the act which he performs, or which renders him incapable of judging whether the act is right or wrong. If you will bear in mind this instruction you will find that it furnishes solid legal ground upon which to stand, and that it is the rule by which your decision must be governed.

Take up the question then in this way: was he conscious of his act when he struck the blow which is alleged to have caused the death of Philip H. Proudfit? Upon that question you will consider all the evidence in this case which bears upon the condition of the mind of the prisoner when the blow was struck. Any evidence going to show anything likely to overthrow the mind and destroy his mental balance, or deprive the moral sense of the power to judge right from wrong, give it careful attention and due weight.

Upon the question whether he was actually conscious when the act was performed, the evidence he has given is entitled to consideration, and also the character of the man and the attendant circumstances.

Upon the question of the prisoner's capability of judging of the moral quality of the act at the time he struck the blow, his honor charged that—

Sanity to the extent of accountability is the normal condition of men, and no presumption of insanity exists; yet, when any evidence is given in the case which tends to raise the question of such sanity, or suggest the inquiry or the suspicion whether the prisoner at the bar was sane or insane to the extent contemplated by the definitions I have given you, at the time of the commission of the act, it then becomes the duty of the prosecution to establish such sanity like every other material point in the case, beyond a reasonable doubt. Of all such doubt the prisoner is entitled to the benefit, but this doubt must be a reasonable one, from the facts in the case, not an unreasonable or speculative doubt; such a doubt as a reasonable man will entertain and permit to control his own action in regard to matters of importance to himself; an honest doubt, not one devised for the purpose, to justify one's own conscience in a particular course. I have said it is not every impairment of the mind which deprives of consciousness, or a sense of right and wrong, yet there may be a degree of impairment not sufficient to relieve of criminal accountability, yet sufficient to modify the degree of responsibility.

In reference to the injuries which it was alleged the prisoner had received at the hands of the deceased, the learned Judge stated, that revenge constituted no excuse

or justification for crime of any kind, and characterized, in the clearest terms, as subversive of all law, any attempt to take the punishment of offenses into private hands. He further informed the jury that the only relation, in law, the alleged injuries could have to the case, would be their effect upon the mind of the prisoner.

The jury then retired and, after deliberating for three hours and twenty minutes, returned an unqualified verdict of "not guilty." This announcement was followed by a scene of joyful excitement and confusion, seldom witnessed in a court of justice. Notwithstanding the positive orders of the Court to suppress all demonstration, the anxious crowd of spectators and friends of Hoppin gave vent to their feelings in a spontaneous outburst of cheering, tossing of hats, and grasping of hands. Miss Turner, Hoppin's betrothed, uttered a scream and fell into his arms, both being quickly surrounded by excited friends and spectators, who vied with each other in offering congratulations. The verdict met with almost universal approval on the part of the public; now and then a person would argue in favor of a minor degree of manslaughter, but a recount of the trials borne by the family, the ruined sister, the hastened death of the mother and the previous good character of the prisoner, stamped the case, in the public mind, as one of the most aggravated on record.

The closing scene in this dramatic chapter of young Hoppin's life savors of both comedy and tragedy, and may be described in a few words. Upon the adjournment of the court the acquitted and his betrothed, together with their immediate friends, were tendered a collation by the sheriff, after partaking of which, the young couple repaired to the house of Dr. C. L. George, physician to the jail, where they were married, the wedding-guests consisting of "friends, sheriff and his officers,

jailors and the twelve jurymen, who a few hours before held in their hands the fate of the bridegroom."

From the evidence it will be seen that there was substantially no difference of opinion, on the part of the three experts respecting the prisoner's mental condition at the time of the homicide. None of them were able to recognize the existence of insanity, although they were obliged to admit, upon the hypothetical questions submitted, that there were, in the language of Dr. Chapin, "some suspicious indications" of the disease; and it is possible that the recognition of these suspicions was regarded by the jury as sufficient to warrant them in entertaining an "honest doubt" upon which, in accordance with their instructions from the Court, they were bound to acquit the prisoner. Discarding the hypothetical questions, the case can not be said to have furnished any sufficient evidences of insanity. All the experts were agreed that the condition of the prisoner, as described in the evidence, namely, sleeplessness, impaired appetite and loss of flesh, accompanied by depression of spirits, mental abstraction, amounting at times to absent-mindedness, inattention to his business affairs and frequent manifestations of grief, was such as would be likely to arise in an individual so keenly sensitive, as was Hoppin, and who had been so long subjected to trials of the nature of those endured by him.

Inasmuch as the verdict of the jury was simply "not guilty," without any word or qualification or intimation respecting the grounds upon which their decision was based, it may justly be assumed that such decision did not rest upon the ground of insanity, as in that case they would have returned a *special* verdict to that effect. The best explanation, in the absence of any intimation from the jury respecting the reasons by

which they reached a decision is, that, partaking of the sympathy for the prisoner, which was so prevalent in the community from which they were drawn, and moved by the eloquent pathos of counsel representing the prisoner as really the most ill-used and unfortunate party in the transaction, they, in accordance with Beccaria's doctrine that "crimes are only to be measured by the injury done to society," naturally seized upon any and every circumstance in the case, offering even the slightest grounds for extenuation.* At all events it is evident that the jury did not regard the prisoner as meriting punishment *under the circumstances*, and their decision is as near an approach to this conclusion as the law permits.

Doubtless very grave objections may be offered to the acquittal of *sane* persons who are proved to have committed homicide; but it is not the object of this paper to attempt a discussion of that branch of the case, as it would open up a wide and perplexing question respecting the line between crime arising from *criminal* passion, and a criminal act done under the influence of "great mental emotion" or the "brief madness of anger," originating in an innocent cause, although the evidence warrants the conclusion that the rash act of Hoppin clearly belongs to the latter class, or, in other words, that it was not the result of criminal thought or deliberation, but on the contrary the instant expression of a "great mental emotion," induced by the sudden appearance of the author of his affliction, and intensified by the sneering remark of Proudfit, "you've lived through it, haven't you?" What a world of meaning was conveyed to Hoppin's mind by that little word "it." In the eloquent language of counsel it

* It is said that at first two of the jurymen were in favor of a minor grade of manslaughter, but that they finally yielded their convictions on this point.

meant, "you have lived to see your sister ruined, disgraced forever by me; you have seen a mother die by my hand; you see my illegitimate child passing in and out before you, the child of my sin and crime, constantly reminding you of your sister's shame; you have lived *that* through, and the trouble and grief you have had upon your mind for two years, *you* have lived through it."

When we reflect that here was the sudden application of a great provocation, the very nature of which is calculated to arouse and put in action the furious passion of intense anger, especially when operating upon a naturally emotional nature, it is not necessary to resort to the department of *morbid* psychology for a satisfactory explanation of the act. The function of the medical expert in dealing with an act of this kind is, to determine, not whether the impulse was uncontrollable or *uncontrolled*, but whether it was the offspring of uncurbed passion, or a manifestation of disease.

In the case before us it is impossible, by any method of reasoning upon the evidence, to arrive at the conclusion that it was "an *insane* impulse, and uncontrollable in the sense in which the impulses of an insane man are beyond his control." On the contrary, the whole history of the case points to the conclusion that his disturbed mental actions never reached a state of insanity, and that, in all probability, he never would have committed the act, had he not been overcome by an angry passion which, for the moment, suspended the judgment. It is admitted that violent passions do deprive the individual of the power of deliberately taking into account the terrible consequences of his fury; and the law-makers, recognizing this fact, have wisely established degrees of murder.

An important element in this case is the fact that *the violent emotion subsided immediately after the accom-*

plishment of the act. Dr. Gray, in his report of the case of Dr. Wright, under commission of President Lincoln, says:* "Latent insanity, suddenly appearing in the manner mentioned, does not instantly disappear with the accomplishment of the violent act, as it has done, if it existed, in the present instance."

Respecting Hoppin's mental condition *before* the homicide, it can hardly be said that absent-mindedness, inattention to business affairs, and depression of spirits, necessarily imply the existence of insanity. It is evident that his employers, with one of whom he boarded, did not regard him as insane, as otherwise they would not have continued him in full charge of the store and post-office; it is also quite likely that the young lady to whom he was engaged did not consider him as insane, for had she thought so she naturally would have taken some measures to free herself from the evil which her womanly instinct would have suggested was in store for her, if she married a lunatic. That his companions in the village did not think him insane is evident from the fact of his having been chosen by them to umpire a game of base-ball *four* days prior to the homicide. There was no pretense that he continued insane *after* the fatal act, and surely the fact of a person killing an individual against whom there existed a real cause for enmity offers, in itself, no evidence of insanity. And, finally, the opinion of the twelve jurymen, upon the question of insanity, was not only indicated by their verdict, but was expressed in no uncertain manner by their attending the wedding of Hoppin, in a body, two hours after their verdict was rendered.

It will be observed that the case of Hoppin resembles, in several important particulars, that of Pierce, who was tried for slaying the seducer of his sister, in

* See AMERICAN JOURNAL OF INSANITY, Vol. XX, p. 299.

Niagara County, N. Y., in 1871. Pierce, it will be remembered, was defended, and acquitted, on the unscientific theory of "mania transitoria." The points of resemblance are the following: an inherited neurotic tendency from both direct and collateral sources; "the high moral tone of the prisoner's character;" "the absence of malicious, vindictive and querulous habits;" his marked affection for his sister; the seduction of the sister under promise of marriage; the intense grief of the prisoner on learning from his mother of his sister's condition; his unsuccessful efforts to induce the seducer to marry his sister; the prisoner's arrangement for his own marriage, made only a short time prior to the homicide; the sudden outburst of fury, occasioned by a taunting remark of the seducer; the prisoner's remembrance of all the circumstances up to the moment of the act, and his declaration that following this there was a blank in his memory for a certain length of time. Hoppin's counsel was so thoroughly impressed with the striking similarity of the two cases, that he determined to continue the parallel by interposing the plea of "transitory mania," as one arm of the defense. This proposition was opposed by the writer on the ground that the terms "transitory" and "instantaneous mania" are contrary to the principles of sound psychology, and whose only use is to open a door through which the guilty may escape from justice; that they are terms coined by certain writers in their attempts to describe that which has never been observed, and which, in fact, can not be proved, and rests only on assertion.

The unfortunate introduction of these illogical, misleading terms into its nomenclature, has done much to retard the progress and impair the usefulness of psychological science, as well as to foster the grossest abuse of the very proper plea, insanity, which has often

encountered prejudice and bitter opposition when legitimately offered in behalf of an irresponsible being.

The time has arrived when it becomes the duty of the medical profession to set its face in opposition to the further progress of these chimerical, fallacious dogmas of "transitory mania," and "homicidal impulse," and to make some effort to eradicate from the public mind the false ideas which now pertain respecting the manifestations of mental disease.

In concluding this paper we feel bound to express the belief that more harm has resulted to society from the confounding of wickedness and crime with disease, as the result of the recognition of the doctrine of "transitory mania," "moral insanity" *et id omne genus*, than those who originate or encourage such doctrines would be willing to admit.

THE

AMERICAN JOURNAL OF INSANITY.

The American Journal of Insanity is published quarterly, at the State Lunatic Asylum, Utica, N. Y. The first number of each volume is issued in July.

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Exchanges, Books for Review, and Business Communications may be sent to the Editor, directed as follows: "Journal of Insanity, State Lunatic Asylum, Utica, N. Y."

The Journal is now in its thirty-fourth year. It was established by the late Dr. Brigham, the first Superintendent of the New York State Lunatic Asylum, and after his death edited by Dr. T. Romeyn Beck, author of "Beck's Medical Jurisprudence;" and since 1854, by Dr. John P. Gray, and the Medical Staff of the Asylum. It is the oldest journal devoted especially to Insanity, its Treatment, Jurisprudence, &c., and is particularly valuable to the medical and legal professions, and to all interested in the subject of Insanity and Psychological Science.